

NOMINATION OF MAJ. GEN. A. J. GOOD- PASTER AND MISCELLANEOUS BILLS

HEARING

BEFORE THE

COMMITTEE ON ARMED SERVICES

UNITED STATES SENATE

EIGHTY-EIGHTH CONGRESS

FIRST SESSION

ON

**NOMINATION OF MAJ. GEN. ANDREW JACKSON GOODPASTER
TO BE ASSIGNED TO A POSITION OF IMPORTANCE AND RE-
SPONSIBILITY DESIGNATED BY THE PRESIDENT (ASSISTANT
TO THE CHAIRMAN, JOINT CHIEFS OF STAFF), IN THE GRADE
OF LIEUTENANT GENERAL**

S. 1767

DELAWARE LAND BILL

H.R. 2664

SOLE SURVIVING SON EXEMPTION

H.R. 2988

**INCREASING EXPENDITURES FOR PARTICIPATION IN
INTERNATIONAL SPORTS COMPETITIONS**

H.R. 3005

**WAIVING DECLARATION OF INTENTION TO BECOME A CITIZEN
AS CONDITION FOR ENLISTMENT IN RESERVES**

H.R. 4338

**TRAVEL AND TRANSPORTATION ALLOWANCES UNDER
CANCELED, REVOKED, OR MODIFIED ORDERS**

DECEMBER 12, 1963

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III

NOMINATION OF GENERAL GOODPASTER AND MISCELLANEOUS BILLS

THURSDAY, DECEMBER 12, 1963

U.S. SENATE,
COMMITTEE ON ARMED SERVICES,
Washington, D.C.

The committee met, pursuant to notice, at 10 a.m. in room 212, Old Senate Office Building, Hon. Richard B. Russell, presiding.

Present: Senators Russell (chairman), Stennis, Symington, Jackson, Ervin, Thurmond, Cannon, Young of Ohio, Inouye, Saltonstall, Smith, and Case.

Also present: William H. Darden, T. Edward Braswell, and Gordon A. Nease, of the committee staff, and Herbert S. Atkinson, assistant chief clerk.

NOMINATION OF MAJ. GEN. ANDREW JACKSON GOODPASTER TO THE GRADE OF LIEUTENANT GENERAL (TO BE ASSISTANT TO THE CHAIRMAN OF THE JOINT CHIEFS OF STAFF)

Chairman RUSSELL. The committee will come to order.

The nomination of Maj. Gen. Andrew Jackson Goodpaster to the grade of lieutenant general was received in the Senate on December 3 and referred to the committee. A letter from the Department of the Army indicates that if this nomination is confirmed, it is contemplated that General Goodpaster will be assigned as Assistant to the Chairman of the Joint Chiefs of Staff.

That last notification is the occasion for this hearing.

(Nomination reference and report, and résumé of service career of Maj. Gen. Andrew Jackson Goodpaster are as follows:)

NOMINATION REFERENCE AND REPORT

IN EXECUTIVE SESSION,
SENATE OF THE UNITED STATES,
December 3 (legislative day, November 27), 1963.

Ordered, That the following nomination be referred to the Committee on Armed Services:

The following-named officer, under the provisions of title 10, United States Code, section 3066, to be assigned to a position of importance and responsibility designated by the President under subsection (a) of section 3066, in grade as follows:

Major General Andrew Jackson Goodpaster, O21739, Army of the United States (lieutenant colonel, United States Army), in the grade of lieutenant general.

RÉSUMÉ OF SERVICE CAREER OF ANDREW JACKSON GOODPASTER, MAJOR GENERAL,
O21739

Date and place of birth: February 12, 1915, Granite City, Ill.

Years of active service: Over 24.

Present assignment: Special assistant to the Chairman of Joint Chiefs of Staff, Office, Joint Chiefs of Staff, Washington, D.C., since December 1962.

MISCELLANEOUS ARMED SERVICES BILLS

Military schools attended: U.S. Military Academy; Command and General Staff School, 12th general staff class; educational equivalent to the Engineer School, basic and advanced courses; educational equivalent to Command and General Staff College.

Major permanent duty assignments (Last 10 years):

	From	To
Special assistant to the Chief of Staff, Supreme Headquarters, Allied Powers, Europe	Dec 1953	Jul 1954
District engineer, San Francisco district area, San Francisco, Calif.	Jul 1954	Oct 1954
White House staff secretary, Office, Secretary of Defense, Washington, D.C.	Oct 1954	Mar 1961
Assistant division commander, 3d Infantry Division, U.S. Army, Europe	Mar 1961	Oct 1961
Commanding general, 8th Infantry Division, U.S. Army, Europe	Oct 1961	Nov 1962

Promotion:

	Temporary	Permanent
2d Lt.		12 Jun 1939
1st Lt.	1 Oct 1940	12 Jun 1942
Captain	24 Feb 1942	15 Jul 1948
Major	29 Oct 1942	14 May 1951
Lt Col.	23 Jun 1943	22 Mar 1957
Colonel	10 Sep 1952	
Brig Gen.	1 Jan 1957	
Maj Gen.	1 Oct 1961	

Medals and awards:

Distinguished Service Cross.
Distinguished Service Medal.
Silver Star.
Legion of Merit (with Oak Leaf Cluster).
Purple Heart (with Oak Leaf Cluster).

Chairman RUSSELL. In the National Security Act of 1947 the congressional declaration of purpose very clearly opposes the establishment of a single Chief of Staff or an Armed Forces General Staff, and that statement is still contained in the law. In addition, the relationship of the Chairman of the Joint Chiefs to the other members of the Joint Chiefs and the relationship of the Chairman to the Joint Staff has been the subject of continuing congressional interest and scrutiny.

Some members of the committee suggested that the administrative creation of the position of assistant to the Chairman of the Joint Chiefs of Staff was potentially significant enough for the committee to have a hearing on this subject. General Taylor is out of the country, I am advised, but we are honored this morning by the presence of Secretary of Defense McNamara who is here to advise the committee on the scope and purpose of this action.

We will be glad to have a statement from you, Mr. Secretary.

STATEMENT OF HON. ROBERT S. McNAMARA, SECRETARY OF DEFENSE

Secretary McNAMARA. Mr. Chairman, I am here primarily to answer the questions of the committee. Perhaps as a foundation for such questions I can express General Taylor's intent and purpose in establishing or recommending the establishment of the position of an assistant to the Chairman of the Joint Chiefs with the rank of lieutenant general.

He made such a recommendation to me toward the end of last month. I approved that recommendation, and following such approval the nomination has been sent forward to you.

His purpose I think is best expressed in two paragraphs of a letter he wrote to you, Mr. Chairman, in response to questions from other Members of Congress.

He said:

At the outset, let me assure you that this administrative action within my office is not an attempt to set up a Deputy Chairman of the Joint Chiefs of Staff to assume the duties of the Chairman in his absence. I realize that such an action would require congressional legislation and, of equal importance, prior consultation with the chairmen of the Senate and House Armed Services Committees. If any such proposition were ever to come under consideration during my term as Chairman, JCS, I can assure you that you would be among the first to be informed and consulted concerning all aspects of the matter before any move were made.

The true purpose of my recommendation—
that is General Taylor's recommendation—

to Secretary McNamara was to promote an outstanding officer who would soon be promoted if assigned elsewhere in the Army and to give him a title corresponding more accurately to the general nature of the duties which he has been performing during the past year. The only change in his duties under the new title would be the assumption of an increasing number of relatively minor matters falling within approved policy which I can properly delegate and also to represent my views in my absence at meetings of the Joint Chiefs of Staff. He has been doing the latter informally on invitation in the past; henceforth, with the agreement of the other Chiefs of Staff, he will continue to do so as a matter of normal procedure when I am absent and another Chief of Staff is the Acting Chairman. This arrangement will allow the Chairman, JCS, to make a timely contribution in absentia to discussions and decisions for which he must share eventual responsibility and will reduce the necessity of holding up papers to get the Chairman's views or of later revising them after the Chairman's views become known. In this respect, the other Chiefs of Staff are under no such disability since they have Vice or Deputy Chiefs of Staff to represent them in their absence at the table of the Joint Chiefs of Staff.

I believe, Mr. Chairman, that expresses fully General Taylor's original conception for the job and the responsibilities for it as I approved them.

Chairman RUSSELL. Mr. Secretary, I have never heard anything but good reports about the subject of this nomination, General Goodpaster. He is generally acclaimed as being an excellent officer, and we have all assumed that he would at some very early date be nominated and confirmed in a three-star rank.

I do have some doubts or reservations as to whether an Assistant to the Chairman of the Joint Chiefs should carry the grade of lieutenant general or the equivalent. I have seen in the past that such addition in grade sets off a chain reaction over there in upgrading of other positions in the Joint Staff and throughout the military departments, and there is some feeling in this committee that there is already some inflation of grades in the Department of Defense.

Now, the statutory functions of the Chairman of the Joint Chiefs are somewhat limited by law. What are the nonstatutory functions that cause the Chairman of the Joint Chiefs to need a three-star assistant?

Secretary McNAMARA. There are certain day-to-day meetings that the Chairman must attend, Mr. Chairman, which require his attendance or the attendance of someone intimately acquainted with his

thinking and those are nonstatutory in the sense that the groups that he is meeting with are nonstatutory groups.

It is desirable that he have an individual attend in his absence. His absences are frequent because his travels are extensive. I think that would be one illustration.

There are times when I, for example, or others in the Department need his opinion and in his absence an individual closely associated with him who understands his views can play an important role in satisfying the need at the moment.

Chairman RUSSELL. Do you think it is necessary to have a lieutenant general to do that or could it be performed by a major general?

One reason I ask the question, Mr. Secretary, is because the position of Director of the Joint Staff is recognized in law and I would not like to see established by administrative action a position of the same rank that would tend to downgrade the office of Director of the Joint Staff.

Secretary McNAMARA. I don't believe this would do that, Mr. Chairman. The responsibilities are very different. The Director of the Joint Staff actually directs the activities of the several hundred officers who are members of that Staff and gives the day-to-day direction and supervision to the basic projects assigned to the Staff by the Chiefs. This is quite a different responsibility from what we are discussing for the Assistant to the Chairman of the Joint Chiefs.

Chairman RUSSELL. When this was originally proposed by the Chairman of the Joint Chiefs I believe that he wished to entitle this position as Deputy Chairman. Am I correct in that, sir?

Secretary McNAMARA. No, sir. I don't believe so. I wasn't present at the initial discussion of the Chiefs so I can't speak firsthand, but I have had conversations with the Chairman of the Joint Chiefs and other members who were present at the time and it is my understanding that the initial discussion was of a title Deputy to the Chairman, rather than Deputy Chairman.

Chairman RUSSELL. Well, Deputy to the Chairman—that was changed now. It has gone back to Assistant to the Chairman. Is there any significance in that retrogression in title?

Secretary McNAMARA. I think there is significance to the change in the sense that the Chairman himself realized that the law implies there should not be established the position of Deputy Chairman without action by the Congress. The other Chiefs I think were concerned lest the title Deputy to the Chairman be interpreted as synonymous with Deputy Chairman. They for the same reason as the Chairman wished to avoid any uncertainty as to the duties of the man and any uncertainty as to whether he was or was not a Deputy Chairman since they believed that this would be contrary to the intent of Congress; moreover, some of the other Chiefs were opposed in principle, I believe, to the establishment of a position of Deputy Chairman, with or without the approval of Congress.

So for those various reasons I am told—again I am repeating conversations because I was not present at that time—I am told that all agreed very quickly that there had been no intention to establish a Deputy Chairman's position and that there was no desire to establish such a position, and therefore the word "Deputy" in the title was eliminated completely and there was substituted therefor the word "Assistant".

Chairman RUSSELL. I have understood—you get a great deal by grapevine down here—that all of the Joint Chiefs except the Chief of Staff of the Army were opposed to the original proposal. Is that correct?

Secretary McNAMARA. Well, again I am repeating hearsay which probably is not satisfactory.

Chairman RUSSELL. I understood they put it in writing.

Secretary McNAMARA. Well, not to the original position. They put in writing I think their views on the final recommendation which is Assistant to the Chairman and I can recall reading the views of several of them and they certainly were not opposed to that.

I remember one Chief was in favor of it so long as it didn't imply in any way the establishment of a position of Deputy Chairman.

Another Chief was completely in favor of it with no comment at all.

Another Chief was in favor of it as Assistant to the Chairman, and I think one of the Chiefs, if I recall correctly, questioned whether the Chairman needed an Assistant. But if I remember rightly, the other three were all in favor of establishing the position.

Chairman RUSSELL. You think, then, that with one possible exception, these original objections were directed more to the title than they were to the functions that were set forth in the original proposal.

Secretary McNAMARA. Yes, sir. That is my understanding.

Chairman RUSSELL. Do you know whether or not these other Chiefs now concur in this proposed realignment of duties and responsibilities of the Assistant to the Chairman of the Joint Chiefs?

Secretary McNAMARA. Yes. I understand so. The exact statement of his duties has not been published yet because the recommendation came to me, if I remember rightly, the day before or two days before the President's death and since that time there just hasn't been a moment to reduce to writing the specific duties that the Chairman has in mind. He left, as you know, for the NATO Conference earlier this week. He intends to reduce it to writing upon his return.

Chairman RUSSELL. You are positive that it was never contemplated that in the absence of the Chairman, the Assistant was in any wise to supplant the senior among the Joint Chiefs that are present in any of his functions that are supposed to be discharged by him under law in the absence of the Chairman of the Joint Chiefs.

Secretary McNAMARA. I am indeed, Mr. Chairman. And I say that because the procedures are known to me in this respect, and very clearly, in the absence of the Chairman, the senior Chief in terms of length of service as a Chief assumes the prerogatives of the Chairman in chairing the discussions and in attending those meetings with the President or other formal meetings that require representation of the Chiefs. That has been the practice. That will be the practice.

Chairman RUSSELL. And nothing about this office was in any way calculated to encroach in the slightest degree upon the assignment of duties under the existing law.

Secretary McNAMARA. Not in the slightest, Mr. Chairman.

Chairman RUSSELL. Senator Stennis?

Senator STENNIS. I don't believe I have any additional questions, Mr. Chairman.

Chairman RUSSELL. Senator Symington?

Senator SYMINGTON. No questions, Mr. Chairman.

Chairman RUSSELL. Senator Smith?

Senator SMITH. Go around and come back to me.

Chairman RUSSELL. Senator Thurmond?

Senator THURMOND. Mr. Secretary, is this a permanent promotion?

As I understand, this is—

Secretary McNAMARA. This is a temporary promotion, Senator Thurmond.

Senator THURMOND. In other words, he will not occupy the position, as I understand it—

Secretary McNAMARA. I am sorry.

Senator THURMOND. He will not occupy the grade just while in this position. He will continue to be a lieutenant general.

Secretary McNAMARA. I am quite confident he will continue to be because I think he is one of the ablest officers in the Army today and I am certain that when he is reassigned to another position, it will be a position carrying the responsibilities of three- or four-star rank.

Senator THURMOND. That is all.

Chairman RUSSELL. Senator Cannon?

Senator CANNON. Thank you, Mr. Chairman.

Mr. Secretary, I notice that his permanent grade is lieutenant colonel. Is there any policy with respect to the number of temporary grades a person may be jumped above his permanent grade?

Secretary McNAMARA. Senator Cannon, I don't know the answer to that question. I will be happy to get it for you.

Senator CANNON. Will you supply that for the record?

Secretary McNAMARA. I will be very pleased to.

(The following information was subsequently submitted:)

There is no policy with respect to the number of temporary grades a person may be jumped above his permanent grade.

Senator CANNON. Also I am wondering whether the fact that he is only a permanent lieutenant colonel with date of rank of 1957 indicates that he may have been passed over by a promotion board that sits in the regular process of promotions.

Secretary McNAMARA. No, sir. I will guarantee you that General Goodpaster has never been passed over and never will be passed over. He is one of the ablest officers that we have. He was, as many of you know, chosen by General Eisenhower to be his assistant, or I should say more properly, "aide"; but in a very broad sense of the word I think he was an assistant to the President. Following my assignment to the Pentagon I went over the list of officers in the several services who appeared to have outstanding ability and he was one of those that I included in that category and took care to see that his assignments following that date were such as to continue to expand his knowledge and experience and provide a foundation for further advancement.

He was moved to command of a division in Germany, for example. We watched him very carefully there and brought him back for this.

I can say without qualification he hasn't been passed over and certainly never will be while I have anything to do with the department.

Senator CANNON. You don't mean by that that you would supplant your judgment for that of the promotion board?

Secretary McNAMARA. I mean by that I don't believe I would ever be faced with that decision but if it involved General Goodpaster, I think I would.

Senator CANNON. You would supplant your judgment over that of a promotion board that meets in the regular course—

Secretary McNAMARA. I think this is such a hypothetical—I don't want to phrase it in that way, Senator Cannon, because that was not the intent of my initial statement. I think any civilian or military leader who has been associated with the Army over the past several years would support my conclusion that General Goodpaster is one of the ablest officers we have in the Army and therefore in a practical sense I think we can say he will not be passed over by the promotion board.

I don't wish to engage in a discussion of what I would or wouldn't do with respect to a particular promotion board's action, but I do want to strongly emphasize to this committee the very high regard that not only the senior leaders of the Army but I think the senior leaders of the other services hold for General Goodpaster.

Senator CANNON. Would you explain why he has been a permanent lieutenant colonel since March 22, 1957?

Secretary McNAMARA. Well, I would have to examine the detailed moves of the Army career officers through the permanent ranks, Senator Cannon, to answer that. I would be very happy to do so.

Senator CANNON. Will you submit that for the record?

Secretary McNAMARA. Very pleased to do so.

(The following information was subsequently submitted:)

1. Title 10 U.S.C. requires that Regular Army officers must be promoted, if selected and if not promoted earlier, to the grades indicated upon completion of the stipulated number of years promotion list service:

Promoted to—	Years promotion list service	Section
1st Lieutenant.....	3	3298
Captain.....	7	3299
Major.....	14	3299
Lieutenant colonel.....	21	3299

2. In April 1956, the Secretary of the Army approved the policy stipulating that officers recommended for promotion to colonel, RA, in accordance with 10 U.S.C., 3305, would be promoted to that grade upon completion of 25 years promotion list service.

3. The Army is currently promoting to the grade of colonel, RA, under the aforementioned policy.

4. Maj. Gen. Andrew J. Goodpaster has a basic date of June 11, 1939. He was considered by the appropriate selection board for promotion to colonel, RA, in 1963. He is currently on the recommended list. (Sequence No. 130, DA Circular 624-37, dated March, 29, 1963). It is anticipated that he will be promoted to colonel, RA, on June 12, 1964.

Senator CANNON. That is all I have, Mr. Chairman.

Chairman RUSSELL. Senator Young?

Senator YOUNG. Thank you, Mr. Chairman.

Mr. Secretary, I don't wish to express my opposition, of course, to General Goodpaster. No doubt he is a very superior general. But I am wondering, and I am impressed by the statement of our chairman that taking this action would cause a chain reaction, and I am wondering why there is any urgency about this just in the late hours of the present session when we hear about austerity and frugality and when it is well known—no one has to convince me of it, I am convinced

already---that some expenditures can be-- there can be a reduction in expenditures in the department over which you have control, and I am just wondering what harm would be done if this matter were held in abeyance until early in the coming session.

I am impressed by what the chairman said about the chain reaction that would follow, not just elevating this one fine officer but other promotions in connection with it.

Secretary McNAMARA. Senator Young, there will be no chain reaction. We follow very carefully the grades and ratings in the several services. Every change up or down in the number of general officers or flag-rank officers authorized for service must obtain my personal signature and I customarily turn down any increases in such ranks unless there has been an actual functional change, and I anticipate none in the Joint Staff in the near term, and therefore see no possibility of a chain reaction here.

We are, as you know, devoting considerable attention to economy in the department. We have for the 3 years that I have been associated with it---we have a \$4 billion a year cost-saving program underway. I will be able to see the goals of that program, I believe.

We will have further information to present to the public on that subject later today, I believe. We have taken several actions this week to reduce expenditures. I am very optimistic as to the levels that will eventually be recommended to the Congress for the following year.

So I can assure you that in no way does this represent a failure to recognize the need to economize in every possible way in the Department of Defense, and it will not lead to any chain reaction.

Senator Young. But during the past, oh, couple of months there hasn't seemed to be any urgency for this particular promotion or creating this position, and I am wondering, in line with what the Chairman said, if it wouldn't be advisable to hold this in abeyance a little and wait a while. Can any harm be done if that were done?

Secretary McNAMARA. I think so, Senator Young. The past several months have indicated the need for this. The volume of work placed on the Chairman is almost more than we can expect one individual to carry out. He must be able to delegate certain personal tasks to men of considerable responsibility and experience. It is clear that he has been doing more traveling and must continue to do more traveling. He has been, for example, to my knowledge in the last 3 months to Honolulu twice, to South Vietnam once. He is in Paris at the moment. He is going to Pakistan and India. And the demands upon that man are more than I think any of us realize and it was that in particular that brought to his attention and mine and to the other Chiefs as well the need for providing him this kind of assistance.

Senator Young. While you state, Mr. Secretary, there will be no chain reaction, would not this creation of this post and this elevation of General Goodpaster naturally cause some other elevations?

Secretary McNAMARA. No, sir. I don't see any other position in the entire Military Establishment that will be affected by this.

Senator Young. No other questions.

Chairman RUSSELL. Our colleague, Senator Goldwater, who is a distinguished member of this committee, has telephoned the committee this morning. He has temporarily adopted the toga, the uniform of a major general and is on active duty at the Pentagon. He has requested

me to make a statement that he knows of no one more worthy of promotion than General Goodpaster and is heartily in favor of the nomination.

Senator Smith?

Senator SMITH. Mr. Chairman, I have no questions but I would like to request that an article by Hanson W. Baldwin appearing in the December 6, 1963, issue of the New York Times be placed in the record of this hearing.

(The document referred to follows:)

[From the New York Times, Dec. 6, 1963]

JOINT CHIEFS SPLIT OVER MOVE TO CREATE NEW POST OF DEPUTY TO THE CHAIRMAN

(By Hanson W. Baldwin)

A move to create a high-ranking post of Deputy to the Chairman of the Joint Chiefs of Staff, though without the title, has stirred up a Pentagon controversy. It has resulted in a letter of inquiry to Secretary of Defense Robert S. McNamara from Representative Carl Vinson of Georgia, chairman of the House Armed Services Committee.

The three-star post was suggested by Gen. Maxwell D. Taylor, Chairman of the Joint Chiefs, and was finally approved in a modified form by Secretary McNamara. According to the definition of his duties, the new assistant to the Chairman is to act as a deputy to the Chairman.

Maj. Gen. Andrew J. Goodpaster has been designated for the post. His nomination for promotion to three-star rank has just been sent to the Senate.

But the circumstances surrounding the creation of the post and particularly the definition of its duties, have aroused fears both in the Pentagon and on Capitol Hill. There is concern that a de facto single Chief of Staff is being established in the Pentagon.

OPPOSED BY MOST CHIEFS

The establishment of a single Chief of Staff over all the Armed Forces would probably be accompanied by the formation of a kind of combined general staff. The issue has caused intense controversy ever since unification of the armed services was first discussed in World War II.

Mr. Vinson's intervention in his letter to Mr. McNamara, sent Wednesday, indicates that President Johnson is facing his first intraadministration controversy. All the service chiefs except Gen. Earle G. Wheeler, Army Chief of Staff, opposed creating a deputy's post, whether it was called that or not.

Mr. Vinson, who has long opposed the concept of a single Chief of Staff, said yesterday that he had not taken any position in his letter to Mr. McNamara. But he said he had indicated that, if such a position had been, or was being, created, it must be done by legislation with full opportunity for public discussion permitted. He requested information as to the exact definition of General Goodpaster's duties.

The controversy has just reached Capitol Hill, but it has been quietly simmering in the Pentagon for some time. Bridging the administrations of President Kennedy and Mr. Johnson, it has just come to the surface with the establishment of the position and Mr. Vinson's reaction.

General Taylor initiated the move by proposing to the Joint Chiefs of Staff some weeks ago the establishment of a three-star position of Deputy to the Chairman. His proposal immediately evoked opposition, in considerable measure because General Taylor's position about the Joint Chiefs of Staff had been clearly expressed in his book, "The Uncertain Trumpet."

General Taylor, in his book, advocated a single Defense Chief of Staff relegating the Joint Chiefs to a new advisory body, the Supreme Military Council, without any executive responsibilities. He also proposed having two deputies to the Defense Chief of Staff, though at that time they were to be from services other than that of the Chief.

Secretary McNamara has never openly endorsed this view, but he has centralized management and control in the Pentagon to a greater degree than ever

before. Recently he greatly expanded the responsibilities and authority of the Strike Command, another of General Taylor's suggestion. And he has seemed, at least in Mr. Kennedy's lifetime, to endorse most of General Taylor's views.

General Taylor, in a paper circulated some weeks ago, first suggested the post of Deputy to the Chairman, with broad duties to assist and represent the Chairman. The original proposal evoked the opposition of Gen. Curtis E. LeMay, Air Force Chief of Staff; Adm. Davis L. McDonald, Chief of Naval Operations, and Gen. David M. Shoup, Commandant of the Marine Corps.

General LeMay said that delegating the Chairman's duties to a deputy was not in accord with procedures agreed upon by the Joint Chiefs and that such a development was neither necessary nor desirable.

Admiral McDonald said that creating such a position would tend to downgrade the responsibilities and authority of the three-star officer now assigned as Director of the Joint Staff, who acts under the authority and control of the Joint Chiefs. He added, pointedly, that custom has been for the senior member of the Joint Chiefs to serve as Acting Chairman in the absence of the Chairman.

General Taylor then altered his proposal in title but, according to Pentagon informants, not in substance. General Goodpaster's position was then described, in the order that apparently has now received Mr. McNamara's approval, as assistant to the Chairman of the Joint Chiefs of Staff. But his duties were still defined in the broad terms to which the majority of the other Chiefs objected.

COULD DELEGATE DUTIES

He is said to be charged with acting as a deputy to the Chairman and with authority to perform those duties of the Chairman which can be delegated under law and regulations and which the Chairman chooses to delegate.

Navy, Marine, and, probably to a lesser extent, Air Force officers see in this broad grant of authority another major step toward a single Chief of Staff and a further downgrading of the Joint Chiefs and of the voices of the individual services.

The report of Mr. Vinson's committee that accompanied the Defense Reorganization Act of 1958 explicitly ruled out any kind of an Armed Forces general staff or national general staff.

The service objections are not personally directed against General Goodpaster, who has a good reputation in the services, particularly in the Army. He served as an assistant to President Dwight D. Eisenhower and his promotion is likely to have bipartisan support in Congress.

Senator SMITH. Yesterday I sent word to Secretary of Defense McNamara that I would appreciate his reading the Baldwin article before appearing at this hearing so that he would be able to comment on it as I intended to bring it before the committee and request his comments.

I now so request that the Secretary of Defense either at this time or subsequently give to this committee his observations on the article and point out specifically wherein the article is inaccurate or incorrect and in what manner it may be inaccurate and incorrect.

Secretary McNAMARA. I think it is disgraceful. I think it is disgraceful that executive sessions of the Chiefs should be reported in the press. I think it is disgraceful that the Chiefs of Staff of this Nation, meeting on the most confidential basis, discussing matters of the utmost security, now must fear that their discussions, their expressions of personal views, their proposals relating to possible applications of Armed Forces, will find their way into the public domain.

There has never been an incident of this kind since I have been with the Department. I know of no other in recent years. But it has shaken the confidence of the entire Department in our security procedures.

This discussion took place in an executive session with no members of the Department present other than the Chiefs themselves. There was no civilian present, for example.

Senator SMITH. Are you saying that the article is accurate?

Secretary McNAMARA. Well, I am saying that it refers to executive session discussions of the Chiefs of Staff and I wasn't present, so I can't comment on the accuracy of the report.

Senator SMITH. Is there anyone who could give the committee the benefit of—

Secretary McNAMARA. Only the Chiefs themselves.

Senator SMITH. Mr. Chairman, I think this is important and it might be well for some one of the Chiefs of Staff to testify with regard to this or include in this hearing a statement on this item.

Chairman RUSSELL. I have a letter here from General Taylor that I believe the Secretary read two paragraphs from.

Secretary McNAMARA. Yes, sir; I did.

Chairman RUSSELL. It doesn't refer directly to the Baldwin article by name, but it does undertake to refute some of the statements in the article by defining his concept of the duties of the office, and I ask that all of that letter be printed in the record at this point and we will consider Senator Smith's suggestion later in executive session.

Senator SMITH. Thank you.

Chairman RUSSELL. We will put the letter from General Taylor in the record here.

(The letter referred to follows:)

CHAIRMAN OF THE JOINT CHIEFS OF STAFF,
Washington, December 9, 1963.

HON. RICHARD B. RUSSELL,
Chairman, Committee on Armed Services,
U.S. Senate.

DEAR MR. CHAIRMAN: I am writing to you concerning my recent recommendation to the Secretary of Defense to promote my special assistant (policy), Maj. Gen. Andrew J. Goodpaster, to lieutenant general and to change his title to Assistant to the Chairman, Joint Chiefs of Staff. In order that there be no misunderstanding about this action, I would like to inform you of my reasons for it.

At the outset, let me assure you that this administrative action within my office is not an attempt to set up a Deputy Chairman of the Joint Chiefs of Staff to assume the duties of the Chairman in his absence. I realize that such an action would require congressional legislation and, of equal importance, prior consultation with the chairmen of the Senate and House Armed Services Committees. If any such proposition were ever to come under consideration during my term as Chairman, JCS, I can assure you that you would be among the first to be informed and consulted concerning all aspects of the matter before any move were made.

The true purpose of my recommendation to Secretary McNamara was to promote an outstanding officer who would soon be promoted if assigned elsewhere in the Army and to give him a title corresponding more accurately to the general nature of the duties which he has been performing during the past year. The only change in his duties under the new title would be the assumption of an increasing number of relatively minor matters falling within approved policy which I can properly delegate and also to represent my views in my absence at meetings of the Joint Chiefs of Staff. He has been doing the latter informally on invitation in the past; henceforth, with the agreement of the other Chiefs of Staff, he will continue to do so as a matter of normal procedure when I am absent and another Chief of Staff is the Acting Chairman. This arrangement will allow the Chairman, JCS, to make a timely contribution in absentia to discussions and decisions for which he must share eventual responsibility and will reduce the necessity of holding up papers to get the Chairman's views or of later revising them after the Chairman's views become known. In this respect, the other Chiefs of Staff are under no such disability since they have Vice or Deputy Chiefs of Staff to represent them in their absence at the table of the Joint Chiefs of Staff.

I look forward to having the opportunity of calling on you and going into the matter in as much greater detail as you may wish.

Sincerely,

MAXWELL D. TAYLOR,

Chairman, Joint Chiefs of Staff

Senator SMITH. I would not necessarily require that one of them come before the committee if he would be willing to make a statement for the committee's information.

Secretary McNAMARA. I think perhaps I can also throw some light on the point, Senator Smith. I am told that General Taylor's initial proposal to the Chiefs was that the position be titled "Deputy to the Chairman" and that is referred to, I think, in the article you have reference to. There was discussion among the Chiefs as to that proposal.

Following such discussion the title was changed to Assistant to the Chairman. And in that sense, and I think if I recall the article correctly—and Senator Cannon has my copy at the moment—the article I believe to be quite correct in referring to the discussion of the Chiefs.

Chairman RUSSELL. I may say that General Taylor also furnished me what might be called a job description for this position or at least the duties that he envisioned would be discharged by the Assistant to the Chairman. It shows the changes that were proposed and which would be put into effect by changing the position title from Special Assistant to the Chairman—Policy, to Assistant to the Chairman of the Joint Chiefs of Staff.

I will ask that this be printed in the record at this point. Existing language to be omitted is enclosed in black bracket, new language is printed in italic, and that part in which no change is proposed is shown in roman.

(The document referred to follows:)

GENERAL AND FLAG OFFICER POSITIONS, OFFICE, JOINT CHIEFS OF STAFF

Agency: Office of the Chairman, JCS

Position title: **[Special Assistant to the Chairman (Policy)]** *Assistant to the Chairman, Joint Chiefs of Staff*

Authorized grade: Major General/Lieutenant General or Rear Admiral (V)/Vice Admiral

Description of duties and scope of responsibilities: The **[Special]** Assistant to the Chairman, Joint Chiefs of Staff, is the Chairman's principal assistant and advisor. **[and acts for the Chairman in many matters.]** *He acts as a deputy to the Chairman with authority to perform those duties of the Chairman which can be delegated under law and regulation and which the Chairman chooses to delegate.*

a. He supervises and directs the work of the Chairman's Staff. **[Group assigning specific projects to them to be prepared for his review and subsequent forwarding to the Chairman.]**

b. He *assists the Chairman in the discharge of his statutory responsibilities for the management of the work of the Joint Staff and the Organization of the Joint Chiefs of Staff, and maintains close contact with the Director, Joint Staff [coordinating] on matters requiring coordination. [the Chairman's personal attention.]*

c. He maintains working contact **[Acts as liaison officer]** with the Assistant Secretaries of Defense, **[and] officials of the Department of State, and other senior officials of the government on [JCS] matters of interest to the Chairman, JCS. As alternate to the Chairman he serves on interdepartmental boards to which he may be assigned by the Chairman.**

d. He attends JCS meetings **[when specifically requested by]** and participates in accordance with the instructions of the Chairman.

[Briefs the Chairman on official and semi-official matters. Accompanies the Chairman on official trips in this country and abroad.] *He keeps informed of the Chairman's views on all matters of substance and is prepared to represent the Chairman at any time and place as directed by the Chairman.*

Chairman RUSSELL. We have some copies of that and I understand they have been distributed to the members.

Secretary McNAMARA. May I make one comment? I have suggested so that there be no misunderstanding whatsoever about the concept of the position or the responsibilities or duties of the incumbent that the word "Deputy" in the fifth line of the description of duties be stricken and replaced with the word "Assistant." It was not General Taylor's purpose, as you know, to assign the functions of "Deputy" to this man, and while that sentence doesn't so assign him, I think that it would be more accurate to replace the word with "Assistant."

Chairman RUSSELL. Well, I think—I thought this was the existing worksheet for this office, Mr. Secretary.

Secretary McNAMARA. No. There has been no publication of his duties as yet, Mr. Chairman.

Chairman RUSSELL. Has not?

Secretary McNAMARA. No, there has not been.

Chairman RUSSELL. Very well. We will change that to "Assistant."

Secretary McNAMARA. Yes, sir. I think that is much more accurate.

Chairman RUSSELL. The fifth line in the third paragraph under "Description of duties and scope of responsibilities."

Secretary McNAMARA. That is correct, sir.

Chairman RUSSELL. The Secretary impressed on me this morning that it was very urgent for him to leave at 10:30 and, Mr. Secretary, we will excuse you now. Perhaps some member will wish to have either you or General Taylor come back.

Secretary McNAMARA. I will be very happy to.

Chairman RUSSELL. You told me it was very important that you get away at 10:30.

Secretary McNAMARA. I very much regret having to ask your approval to leave but I do have several other appointments that were made previous to your request to attend here this morning. I am grateful to you for the time present, Mr. Chairman.

Chairman RUSSELL. We are happy to have you, Mr. Secretary.

(The nomination of Major General Goodpaster was subsequently approved by the committee in executive session on January 23, 1964.)

S. 1767—DELAWARE LAND BILL

Chairman RUSSELL. The first bill on the agenda this morning is the S. 1767, sponsored by Senators Williams and Boggs of Delaware, to authorize the Secretary of the Army to convey certain parcels of land to the State of Delaware. This bill was scheduled for consideration this morning in compliance with the urgent request of Senators Williams and Boggs.

(S. 1767 follows:)

[S. 1767, 88th Cong., 1st sess.]

A BILL To authorize the Secretary of the Army to convey a certain parcel of land to the State of Delaware, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Army is authorized to sell and convey to the State of Delaware, by quitclaim deed, all right, title, and interest of the United States to the portion of Fort Miles, Delaware, which is held by the United States in fee-simple and which is determined to be surplus to the needs of the United States.

SEC. 2. The conveyance authorized herein shall be made upon payment to the United States by the State of Delaware of that portion of the purchase price, paid by the United States for the acquisition of Fort Miles, which is attributable to the value of the land conveyed hereunder.

SEC. 3. The conveyance authorized herein shall provide that the lands conveyed shall be forever used for purposes of public education and public recreation, and that upon the termination of such use the lands shall revert to the United States.

Chairman RUSSELL. Senator Williams is here to describe the bill to us. We are glad to have you testify, Senator, and you may make any statement you may see fit with respect to the bill.

**STATEMENT OF HON. JOHN J. WILLIAMS, A U.S. SENATOR FROM
THE STATE OF DELAWARE**

Senator WILLIAMS. Thank you, Mr. Chairman.

On behalf of Senator Boggs I want to thank the committee for the opportunity to appear here this morning in support of S. 1767. The purpose of this bill is to convey to the State of Delaware that portion of the 1,000 acres known as Fort Miles in Lewes, Del., which is no longer needed for defense purposes.

Under this bill the area formerly used for defense purposes but now being declared surplus to national defense needs will be conveyed to the State of Delaware upon repayment to the Federal Treasury of any funds which were heretofore paid to the State for its acquisition, and under section 3 of the bill it provides that:

Conveyance authorized herein shall provide that the lands conveyed shall be forever used for purposes of public education and public recreation, and that upon the termination of such use the lands shall revert to the United States.

Now, practically all of this land located along the Atlantic seaboard near Lewes, Del., representing approximately 1,000 acres, was originally acquired from the State of Delaware at no cost to the Government.

The State of Delaware has never received a dime from the Federal Government as payment for its interest in this 1,000 acres of land.

There was a payment following a condemnation decision around 1947 of approximately \$50,000, which payment was in its entirety turned over to the town of Lewes, Del. At the time of this friendly condemnation the U.S. Government already had full use of the land and had been using it for defense purposes, but apparently there had been some question as to the title of a portion of this tract of land. It was not clear whether it belonged to the State of Delaware or to the town of Lewes.

But it is that settlement the State of Delaware never asked for nor did it receive any payment for its land. The only payment which was made was that which was turned over to the town of Lewes to settle its claim.

At the beginning of World War II the U.S. Government desired to build a fort at the entrance to Delaware Bay for which they needed around 1,000 acres. On May 5, 1941, the Delaware Legislature ceded to the U.S. Government additional acreage in this area, again at no cost.

Now, for the record I would like to quote briefly from the various acquisition acts of the State which show over the years how the State of Delaware has ceded this land to the Federal Government at no cost.

First, going back to the act of 1873. I will just quote one section and I will incorporate the whole act into the record, but I quote one section of this act as passed by the Delaware Legislature on February 5, 1873:

Section 2. Be it further enacted by the authority aforesaid, that the above cession of land and jurisdiction hereby made is upon the express condition that defenses, to be built by the United States at the Delaware Breakwater harbor, shall be constructed thereon.

(The document referred to follows:)

[Laws of Delaware, vol. 14, pt. 2, 1873]

CHAPTER 356—OF PUBLIC LANDS

An Act to cede certain lands to the United States of America

Section 1. Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met, That William D. Waples, N. W. Hickman and Dr. D. H. Houston, of Sussex county, be and they are hereby appointed commissioners on the part of the State of Delaware, and they, or a majority of them, are hereby authorized and empowered, in conjunction with any agent or person appointed by the President of the United States, or by the Secretary of War, to locate and fix the boundaries of any quantity of land belonging to the State of Delaware, not exceeding two thousand and one hundred feet front and three thousand feet deep, from low water mark situated and lying on the Delaware Bay, southeast of the old mole, usually called the Government Mole, and between said old mole and the point of Cape Henlopen, and the land belonging to the State of Delaware, located and designated by the boundaries to be fixed and determined by the commissioners aforesaid in conjunction with the agent or person to be appointed as aforesaid by the President of the United States or by the Secretary of War, and all claim, title and right of soil and jurisdiction of the State of Delaware in, to, or over the same is hereby ceded to and vested in the United States in perpetuity; and that a plot of the land so located and hereby ceded as aforesaid be made and recorded in the office of the Recorder in and for Sussex county: Provided that the sovereignty and jurisdiction of this State shall extend over the land hereby ceded to the United States so far as that all civil and criminal process issued under any law of this State may be executed in any part of said lands and buildings or structures thereon erected.

Section 2. Be it further enacted by the authority aforesaid, That the above cession of land and jurisdiction hereby made is upon the express condition that defenses, to be built by the United States at the Delaware Breakwater harbor, shall be constructed thereon.

Section 3. Be it further enacted by the authority aforesaid, That the north end of Reedy Island, in New Castle county, Delaware, not to exceed fifty acres, and also the ice harbor constructed on the east side thereof, be and the same are hereby ceded to the United States; and all claim, title and right of soil and jurisdiction of the State of Delaware in, to, or over the same is hereby ceded to and vested in the United States in perpetuity; and that a plot of the land so located and hereby ceded as aforesaid be made and recorded in the office of the Recorder in and for New Castle county: Provided that the sovereignty and jurisdiction of this State shall extend over the land hereby ceded to the United States so far as that all civil and criminal process issued under any law of this State may be executed in any part of said lands and buildings or structures thereon erected or to be erected.

Passed at Dover, February 5, 1873.

Senator WILLIAMS. I cite that act to show that it was done for a specific purpose only and that it was transferred at no cost.

Later there was another act passed for additional land on April 12, 1889, and I will incorporate this act in the record, but I will quote section 2 of that act.

Section 2. That the above cession of land and jurisdiction is made upon the express condition that a Quarantine State shall be located and maintained thereon by the United States.

MISCELLANEOUS ARMED SERVICES BILLS

(The document referred to follows) :

[Laws of Delaware, vol. 18, pt. 1, 1887]

CHAPTER 449—OF PUBLIC LANDS

An Act To cede certain lands to the United States of America

Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met :

Section 1. That Hiram R. Burton, David L. Mustard, and Franklin C. Maull, of Sussex County, be, and they are hereby appointed Commissioners on the part of the State of Delaware, and they, or a majority of them are hereby authorized and empowered in conjunction with any agent or person appointed by the President of the United States, or by the Secretary of the Treasury, to locate and fix the boundaries of any quantity of land belonging to the State of Delaware, not exceeding fifteen hundred feet front, and twelve hundred feet deep from low water mark, situate and lying on the Delaware Bay, between the United States Government Iron Pier, and the point of Cape Henlopen; and the land so located and designated by the aforesaid Commissioners, in conjunction with the agent or person appointed as aforesaid by the President of the United States or the Secretary of the Treasury, and all claim, title and right of soil and jurisdiction of the State of Delaware into or over the same, are hereby ceded to and vested in the United States in perpetuity; that a plot of the land so located and hereby ceded as aforesaid be made and recorded in the office of the Recorder of Deeds, in and for Sussex County; Provided, that the sovereignty and jurisdiction of this State shall extend over the land hereby ceded to the United States so far as that all civil and criminal process issued under any laws of this State may be executed in any part of said lands and the buildings or structures thereon erected.

Section 2. That the above cession of land and jurisdiction is made upon the express condition that a Quarantine State* shall be located and maintained thereon by the United States.

Passed at Dover, April 12, 1889.

Senator WILLIAMS. I would next like to quote from the act of 1941. When the war broke out the Government needed at this time additional acreage. They wanted approximately 1,000 acres additional, and I will incorporate the whole act here in the record, but I will read just two pertinent paragraphs of this act as passed by the legislature:

Section 1. That the State of Delaware does hereby cede to and vest in the United States of America in perpetuity all its claim, title and right of soil and jurisdiction into or over all that quantity of land belonging to the said state of Delaware not exceeding 1,500 feet front and 1,200 feet deep from low water mark situate and lying on the Delaware Bay, at or near Lewes, Sussex County, Delaware, between the United States Government Iron Pier and the Point of Cape Henlopen.

I will quote section 2 of this act :

Section 2. That the above cession of land and jurisdiction is made upon the express condition that said land shall be used for national defense purposes or for quarantine station or other governmental purposes by the United States.

*So enrolled.

(The document referred to follows:)

[Laws of Delaware, vol. 43, 1941]

JURISDICTION AND PROPERTY OF THE STATE

CHAPTER 4.

CESSION OF LANDS TO THE UNITED STATES OF AMERICA

An Act To cede certain lands to the United States of America

Whereas, by Chapter 449 of Volume 18, Laws of Delaware, the State of Delaware, by an Act of the General Assembly, ceded to and granted jurisdiction over to the United States of America of a quantity of land belonging to the State of Delaware not exceeding fifteen hundred (1,500) feet front and twelve hundred (1,200) feet deep from low water mark situate and lying on the Delaware Bay, between the United States Government Iron Pier and the point of Cape Henlopen; and

Whereas, by Chapter 1, Volume 42, Laws of Delaware, fee simple title of the State of Delaware to the said land was reasserted due to abandonment thereof by the United States of America by failure to maintain a quarantine station thereon, and with the consent of the United States of America; and

Whereas, the United States of America now desires title to the said above described land for purposes of National Defense, and the State of Delaware being willing to cede said land for such purpose; Now Therefore

Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met:

Section 1. That the State of Delaware does hereby cede to and vest in the United States of America in perpetuity all its claim, title and right of soil and jurisdiction into or over all that quantity of land belonging to the said State of Delaware not exceeding fifteen hundred (1,500) feet front and twelve hundred (1,200) feet deep from low water mark situate and lying on the Delaware Bay, at or near Lewes, Sussex County, Delaware, between the United States Government Iron Pier and the Point of Cape Henlopen;

Provided, that the sovereignty and jurisdiction of this State shall extend over the land hereby ceded to the United States so far as that all civil and criminal process issued under any laws of this State may be executed in any part of said lands and the buildings or structures thereon erected.

Section 2. That the above session * of land and jurisdiction is made upon the express condition that said land shall be used for National Defense purposes or for quarantine station or other governmental purposes by the United States.

Approved May 5, 1941.

Senator WILLIAMS. This was done again for the Government without any cost and there appears to be no question but that this land was to revert to the State should be U.S. Government decide it no longer needed it for the purpose for which it was obtained.

The land transferred under these acts represented but a part of the overall tract later utilized as Fort Miles. When the Government in 1945 decided to expand its operations, the Delaware Legislature again, under an act approved on April 24, 1945, conveyed to the U.S. Government full rights to an additional 1,010.8 acres of land. This conveyance was likewise made without any charge to the U.S. Government.

I will quote just one paragraph of this act and ask that the entire act be printed in the record. The last sentence of section 2 involved in here reads as follows:

Said jurisdiction to continue so long as the land shall be used for the purposes for which jurisdiction is ceded and no longer.

*So enrolled.

(The document referred to follows:)

[Laws of Delaware, vol. 45, 1944-45]

CHAPTER 7. CESSION OF MILITARY RESERVATION TO UNITED STATES

An Act Granting the consent of the General Assembly of the State of Delaware to the acquisition by the United States of a certain tract or parcel of land in Lewes and Rehoboth Hundred, Sussex County, Delaware, and ceding jurisdiction to the United States for certain purposes

Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met:

Section 1. That the consent of the General Assembly of the State of Delaware be, and the same is hereby given, pursuant to the seventeenth clause of the eighth section of the first article of the Constitution of the United States, to the acquisition by the United States of America of a certain tract or parcel of land situate in Lewes and Rehoboth Hundred, Sussex County, Delaware, used in connection with a military reservation officially designated Fort Miles, being a part of the Harbor Defenses of Delaware, bounded and described as follows:

Beginning at a stone marked U.S., which stone is at the Southwest corner of the U.S. Fort Reservation (ceded to the United States of America by Act of Legislature of the State of Delaware, passed February 3, 1873), formerly known as the Delaware Breakwater Military Reservation; thence along the Southerly boundary of the said U.S. Fort Reservation North 68°24'19" East 2104.6 feet to a stone marked U.S., which stone is the Southeast corner of the said U.S. Fort Reservation; thence along the Easterly boundary of the said U.S. Fort Reservation North 21°38'30" West 2243.5 feet to a monument on the Southerly boundary of the U.S. Naval Reservation; thence along the Southerly boundary of the said U.S. Naval Reservation North 89°57'30" East 1399.6 feet to the high water line of the Atlantic Ocean; thence Southeastwardly along the high water line of the Atlantic Ocean 3950 feet, more or less, to a stake in the Northerly boundary of the former Cape Henlopen Lighthouse Reservation (acquired by the United States of America April 13, 1792); thence along the Northerly boundary of the said Cape Henlopen Lighthouse Reservation South 71°57'30" West 2353.7 feet to a monument at the Northwest corner of said Cape Henlopen Lighthouse Reservation; thence along the Westerly boundary of the said Cape Henlopen Lighthouse Reservation South 18°2'8" East 3298.4 feet to a monument at the Southwest corner of the said Cape Henlopen Lighthouse Reservation; thence along the Southerly boundary of the said Cape Henlopen Lighthouse Reservation North 71°58'16" East 2285 feet to a stake set in the high water line of the Atlantic Ocean; thence Southeastwardly along the high water line of the Atlantic Ocean 2700 feet, more or less, to a stake; thence North 89°58'40" West 6601.8 feet to a stake; thence due North 6932.8 feet to a stake set in the Southerly boundary line of a right of way now or formerly of the Pennsylvania Railroad Co.; thence crossing the said right of way and along lands of Mark T. McKee, formerly known as U.S. Pier Reservation, North 7°49'10" East 1632.3 feet to the low water line of Delaware Bay; thence Northeastwardly along the said low water line of Delaware Bay 243 feet, more or less to a stake; thence South 7°49'10" West 78 feet to a point in the high water line of Delaware Bay; thence Northeastwardly along the said high water line of Delaware Bay 410 feet, more or less, to a stake set in the Westerly boundary of the former U.S. Quarantine Reservation (ceded to United States of America by Act of Legislature of the State of Delaware, approved May 5, 1911); thence along the Westerly boundary of the said former U.S. Quarantine Reservation South 24°39'0" East 1183.4 feet to a stone set in the Southwest corner of the said former U.S. Quarantine Reservation; thence along the Southerly boundary of the said former U.S. Quarantine Reservation North 65°21'0" East 611.9 feet to the Westerly boundary of the aforesaid U.S. Fort Reservation, formerly known as the Delaware Breakwater Military Reservation; thence along the Westerly boundary of the said U.S. Fort Reservation South 21°38'40" East 1257.5 feet to the point or place of beginning.

Excepting a one-acre parcel of land located near the Southeast corner of the above-described lands and bordering on the Atlantic Ocean, which lands are known as the Cape Henlopen Coast Guard Reservation (ceded to the United States of America by the State of Delaware, deed dated April 1, 1897).

Containing 1,010.8 acres of land, more or less.

Section 2. Be it further enacted, That exclusive jurisdiction over the aforesaid land is hereby ceded to the United States of America for any of the purposes described in said clause of the Constitution of the United States; provided,

MISCELLANEOUS ARMED SERVICES

that the sovereignty and jurisdiction of this State shall extend over the said land so far as that all civil or criminal process issued under authority of any law of this State may be executed in any part of the land; said jurisdiction to continue so long as the land shall be used for the purposes for which jurisdiction is ceded and no longer.

Section 3. Be it further enacted, That this act shall take effect from and after its passage.

Approved April 24, 1945.

Senator WILLIAMS. I cite this to show that all of this land was turned over by the State of Delaware at various times by the legislature without any cost, without any reimbursement by the Federal Government, but with the express purpose that it was to be used for national defense purposes and with the clear understanding that should it ever not be used for national defense purposes or so needed, the land would revert to the State of Delaware.

These three acts of the Delaware Legislature gave to the U.S. Government exclusive jurisdiction over this entire area embracing over 1,000 acres now designated as Fort Miles with the clear understanding on the part of the State that it was conveying this land for the express purpose of its being used for the defense of our country and that should it no longer be needed for such purposes, it would revert to the State of Delaware.

I won't belabor the committee any longer. I would, however, like to insert a letter in the record signed by General Boye, under date of April 12, 1963, and also a copy of a letter which Senator Boggs and I wrote to Secretary McNamara in connection with this same question. (The documents referred to follow:)

DEPARTMENT OF THE ARMY,
OFFICE OF THE SECRETARY OF THE ARMY,
Washington, D.C., April 12, 1963.

HON. JOHN J. WILLIAMS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR WILLIAMS: This is in reply to a letter from you and Senator Boggs concerning the Army's position on the disposal of Fort Miles, Lewes, Del. The Federal Government acquired the land about which you inquired in four separate parcels. In order to avoid any confusion concerning dates and methods of acquisition, I shall discuss each tract separately.

The United States condemned fee simple absolute title to the 1,010.8 acres described in volume 45, chapter 7, of the "Laws of Delaware, 1944-45" in eminent domain proceedings initiated in 1941 ("civil suit No. 2, June term 1941, U.S.D.C. for the district of Delaware) by filing a declaration of taking on July 7, 1941, and paying into court \$43,643. The purported owners of the three tracts of land listed in the declaration of taking were:

- Tract 1 (estimated compensation \$42,323.50), State of Delaware and/or town of Lewes, Cape Henlopen Surf Club, Martin L. Black, Harry R. Draper, Lewes Sand Co., Sussex Sand Co., and Philadelphia Maritime Exchange.
- Tract 2 (estimated compensation \$704.50), State of Delaware and/or town of Lewes, Lewes Sand Co.
- Tract 3 (estimated compensation \$525), Delaware, Maryland & Virginia Railroad Co., Pennsylvania Railroad Co.

The State of Delaware did not transfer title to the United States by the act approved April 24, 1945 (vol. 45, ch. 7, "Laws of Delaware, 1944-45"), but merely ceded exclusive jurisdiction over the lands to the United States; exclusive jurisdiction being a technical term connoting the right of the United States to exercise sovereign powers over the area in question without interference from the State of Delaware. In other words, since June 1, 1945, the date on which the United States accepted exclusive jurisdiction, the laws of Delaware have been without effect in this particular area of Fort Miles. The law is unquestioned that when the United States ceases to hold title to this property, the right of exclusive legislative jurisdiction will revert to Delaware.

No question exists that the State of Delaware ceded title to the remaining parcel of land to the United States by the act of May 5, 1941 (vol. 43, ch. 4, "Laws of Delaware, 1951"). The Department of the Army believes that section 2 of this latter act is a mere statement of the purposes for which the cession was made and not a condition subsequent. The absence of any language prescribing a reversion when the project ceases to be used for Federal purposes strengthens this belief. Of course, a court of law might interpret the language differently but, until that time, the Department of the Army adheres to its position that the title, in fee simple absolute, to this particular tract remains in the United States and that the Federal Government has full power to alienate such fee without bringing into effect any reversion to Delaware.

As in the case of the 1,010.8 acre tracts when Federal ownership ceases, exclusive jurisdiction returns to the State regardless of the language of the cession statute.

I hope the foregoing has clarified the Department of the Army's position in this matter and will be of assistance to you.

Sincerely yours,

F. W. BOYE, Jr.,
Brigadier General, GS, Deputy Chief of Legislative Liaison.

U.S. SENATE,
COMMITTEE ON PUBLIC WORKS,
March 19, 1962.

Hon. ROBERT S. McNAMARA,
Secretary of Defense,
Washington, D.C.

Attention: Mr. Eugene H. Merrill, Deputy Assistant Secretary of the Army
(I. & L.) (Installations).

MY DEAR MR. SECRETARY: This is in reference to our earlier conversations and correspondence in connection with the proposed plans of the Department of Defense to report the existing facilities known as Fort Miles, Lewes, Del., as excess to the needs of the Department for defense purposes.

In your letter of March 15, 1962, you state that it is your intention to declare this area as surplus property and subject to disposition under the Federal Property and Administrative Services Act of 1949 (63 Stat. 377), as amended. We cannot understand the reasoning behind your statement that this area, which was obtained from the State of Delaware in 1941 and 1945 without cost, should be disposed of in any manner other than returning it to the State since it is very clear in the legislative background under which the Government obtained this property that it was ceded to the U.S. Government with the clear understanding that it was to be used for defense purposes only and with the understanding that should it no longer be needed for defense purposes it would revert to the State.

To support this claim we refer you to the two acts of the Delaware Legislature under which this property was made available to the Government.

The first land obtained by the Government in the Lewes area for defense purposes was the result of an act passed by the Delaware Legislature on May 5, 1941, printed in volume 43, chapter 4, of the Laws of Delaware. A copy of that legislative act is enclosed, and we particularly call your attention to section 2, which reads as follows:

"SECTION 2. That the above session¹ of land and jurisdiction is made upon the express condition that said land shall be used for national defense purposes or for quarantine station or other governmental purpose by the United States."

Again, on April 24, 1945, further action was taken by the Delaware Legislature, at which time a tract of land in the Lewes area, presently known as Fort Miles, containing 1,010.8 acres, more or less, was ceded to the U.S. Government. This act may be found in volume 45, chapter 7 of the Laws of Delaware, 1944-45. A copy of that act as passed by the General Assembly of the State of Delaware is enclosed. In this act a complete description of the 1,010.8 acres being transferred is found along with various courses and distances necessary to describe the property. We first refer you to section 1 of this second act which reads as follows:

"SECTION 1. That the consent of the General Assembly of the State of Delaware be, and the same is hereby given, pursuant to the seventeenth clause of the

¹ So enrolled.

eighth section of the first article of the Constitution of the United States, to the acquisition by the United States of America of a certain tract or parcel of land situate in Lewes and Rehoboth Hundred, Sussex County, Delaware, used in connection with a military reservation officially designated Fort Miles, being a part of the Harbor Defenses of Delaware, bounded and described as follows:

You will note that this consent is given "pursuant to the seventeenth clause of the eighth section of the first article of the Constitution of the United States." The seventeenth clause of the eighth section of the first article of the Constitution reads as follows:

"To exercise exclusive Legislation in all Cases whatsoever, over such District (not exceeding ten Miles square) as may, by Cession of particular States, and the acceptance of Congress, become the Seat of the Government of the United States, and to exercise like Authority over all Places purchased by the Consent of the Legislature of the State in which the Same shall be, for the Erection of Forts, Magazines, Arsenals, dock-Yards, and other needful Buildings;—And"

Again we call your attention to the fact that this section of the Constitution referred to in section 1 specifically provides that "Same shall be, for the Erection of Forts, Magazines, Arsenals, dock-Yards, and other needful Buildings."

We refer you to these points to clearly establish that it was the clear intention of the General Assembly of the State of Delaware in ceding this property to the U.S. Government that it was being done for the sole purpose of its being used for national defense requirements.

Continuing, we refer you to section 2 of the Legislative Act as approved on April 24, 1945, wherein it is stated that jurisdiction over the aforesaid land that is being ceded to the United States of America "for any of the purposes described in said clause of the Constitution of the United States" (clause seventeen of the eighth section of the first article of the Constitution) and wherein the last portion reads as follows: " * * * said jurisdiction to continue so long as the land shall be used for the purposes for which jurisdiction is ceded and no longer."

We are enclosing copies of both the May 5, 1941, and the April 24, 1945, acts of the legislature as found in volume 43, 1941, and volume 45, 1944-45, Laws of Delaware, with the request that you reexamine this record and see if you do not agree with us that as the Department of Defense relinquishes its rights to this property it should automatically revert to the State of Delaware without any payment being made.

Yours sincerely,

JOHN J. WILLIAMS.
J. CALEB BOGGS.

Senator WILLIAMS. I also have a letter here from the State of Delaware signed by Mr. Leo De Valinger, State archivist, dated March 7, 1963, and I will read that letter. It is very brief:

Governor Carvel has referred your letter of February 22 to this office.

On May 5, 1941, an act passed by the Delaware Legislature was approved ceding certain land to the United States for defense or other governmental purposes only. This is published in the Laws of Delaware, volume 43, chapter 4, pages 7 and 8.

On April 24, 1945, another act of the General Assembly was approved. This specifically defines the boundary of the Fort Miles Reservation as acquired by several previous cessions and provides that Federal jurisdiction shall continue "so long as the land shall be used for the purposes for which jurisdiction is ceded and no longer." That act appears in the Laws of Delaware, volume 45, chapter 7, pages 35 and 37. It also states that 1,010.8 acres of land, more or less, were acquired.

We do not find that any payment was made to the State of Delaware, and it is obvious from the act that it was ceded without payment by our State for national defense purposes.

If we can supply you with any further information please call on us. May I express the hope that you will be successful in having this land returned to our State.

That was signed Leo De Valinger on behalf of the Governor.

If incorporate these in the record and I merely state, Mr. Chairman, that we are asking that this be returned to the State. We are willing to have included a proviso that the land will remain in the possession

of the State only so long as the State uses it for public recreation or educational purposes.

I might say in addition that the State has several hundred acres of land immediately adjacent to this which it is planning to make into a State park area, and we want to keep that preserved as well as we can to make sure it does not revert to commercial use, as would result if it were declared surplus.

Chairman RUSSELL. Senator, as I understand it now, about a third of this land or a fourth of it was transferred by the State of Delaware to the United States without any cost whatever.

Senator WILLIAMS. More than that percentage; yes, sir.

Chairman RUSSELL. There were 155 acres of it. And 339 acres were acquired by condemnation at an estimated \$61,000. The property is now estimated to be worth a great deal more than that.

Would you have any objection to provision in the bill that the United States could preempt the property again if this were necessary for national defense purposes?

Senator WILLIAMS. No. Not at all. In fact, that would be understood, and I might say that it was the policy of our State that during the last war, both the last war and the Korean war, when the Federal Government wanted to use a lot of our coastline for antiaircraft practice, and most of the National Guards from the District of Columbia and many of the surrounding States used that area exclusively, for our State to allow them to use it at the token payment of \$1 per year.

So, if the Federal Government needed it for national defense purposes, we certainly would have no objection.

Chairman RUSSELL. I don't think, in view of the revolution in weaponry, it is very likely they would use it, but in view of the very reasonable terms on which this land is transferred back to the State of Delaware, it would seem to me that the Government should reserve that right. I don't think the Government will ever need to exercise it.

Senator WILLIAMS. I would have no objections to that; I think it would be only proper. The only reason we are suggesting it should be turned back to the State is that those payments made to the State went to third parties for their parts of the land, and the approximately 1,000 acres, which is the bulk of the tract, and I might say the most valuable part of the tract, because it is along the waterfront, were ceded by the State without cost to the Government.

We were glad to do it to help the Federal Government when it needed it for national defense purposes during the war.

Chairman RUSSELL. Well, I wouldn't question the patriotism of the people of Delaware. I know in the Revolutionary War their regiment was called the Old Blue Hen's Chicks. Of course, there was a question of whether that was because they fought so well or bet so heavily on the blue game roosters, the revolutionary soldiers.

Senator WILLIAMS. Recently the Georgia chicks have given us a little competition.

Chairman RUSSELL. Any questions for Senator Williams?

Senator CASE?

Senator CASE. Would your suggestion, Mr. Chairman, do you think, meet the Morse formula?

Senator WILLIAMS. Yes. It would meet the Morse formula in those areas because we are paying back 100 percent what the Federal Government paid. Now, we are not willing to pay the Federal Government for land which we gave them to be used as defense. I don't think that anyone would suggest that we should have to buy back this approximately 1,000 acres of land from the Federal Government now that they don't need it any longer for national defense purposes since it was ceded by the State of Delaware at no cost. After all, if you are going to put the Morse formula into effect, I think we ought to retroactively put it into effect and let the Government pay the State of Delaware because we gave it to them outright and allowed them to use the additional land now in that area for \$1 a year. It was very clear in the act of the legislature that it was being decided for national defense purposes with the understanding that it was to remain in the Federal Government so long as they needed it for national defense purposes and then come back to our State. That was our understanding.

Senator ERVIN. I might state on that, on one occasion the chairman of this committee and his colleagues prevailed upon a Senator to rise above principle and ignore the Morse formula.

Chairman RUSSELL. We just prevailed upon him to rise above the Morse formula.

Senator ERVIN. I will accept the amendment.

Senator CASE. There are other formulas like the Magnuson formula.

Chairman RUSSELL. I wasn't going to undertake to define the Morse formula. I thought if the committee reported this bill it would then be up to the Senator from Delaware to reconcile the bill with the Morse formula or any other formula that might be going around.

Senator WILLIAMS. I will be delighted to do it. As I understand the Morse formula, when the Federal Government buys something at fair market value then when it disposes of it it should be paid fair market value—

Senator CANNON. What is the estimated value of this property?

Senator WILLIAMS. I don't know. But the—

Chairman RUSSELL. Around \$1.5 million.

Senator CANNON. About \$1.5 million?

Senator WILLIAMS. I think part of that value, if I might say, was based upon the value of the installations which the Army has which would have to be torn down if it was no longer usable because no one would keep these up. But it is valuable.

Chairman RUSSELL. The installations cost \$4.7 million but they are very old and really don't have—

Senator WILLIAMS. It is valuable property and always has been.

Chairman RUSSELL. Exceedingly valuable property.

Senator WILLIAMS. No question about that.

Chairman RUSSELL. For resort and recreational areas, and I understand the Department of the Interior, for example, is in support of the bill because it does open up a new recreational area.

Senator CANNON. Do we have an estimate of the value of the property exclusive of the improvements?

Chairman RUSSELL. Yes. \$1.6 million.

Senator CANNON. With about \$4.7 million in improvements on it, Chairman RUSSELL. That is what they cost, yes. But I imagine they will find that the improvements will be really a cause of an outlay because they will have to tear them down.

Senator CANNON. Has the property appreciated in value since it was obtained by the Government?

Senator WILLIAMS. Only to the extent of inflation as all properties.

Senator CASE. Is this near the proposed ferry landing?

Senator WILLIAMS. Yes. It would be not in direct line but it is near—it takes all of Cape Henlopen, and the State owns another approximately 1,600 acres in addition to this that is right down below it. We hope to turn all of it into a State park for recreation. Our State wanted to do it as a State rather than have the Federal Government come in and make it a Federal park, a national park.

Senator CANNON. Do you have any estimate of the value at the time the State conveyed it to the Government?

Senator WILLIAMS. Since we were not charging for the land I know of no appraisal.

Senator CASE. A somewhat comparable situation as up in Sandy Hook.

Chairman RUSSELL. I understand it was set aside for public use in 1683 by William Penn. It wouldn't have had any great monetary value at that time because you remember they bought Manhattan from the Indians shortly before that for \$24 worth of beads.

Senator WILLIAMS. It was specifically spelled out in that act that it would be in the Federal Government as long as it would be used for national defense purposes. I frankly did not think it would even need an act of Congress to get it back, but apparently the way it was done it does take an act of Congress.

Chairman RUSSELL. Any further questions?

Senator THURMOND. Mr. Chairman, may I ask one question? There is no opposition, as I understand, to it.

Senator WILLIAMS. Not to my knowledge.

Senator THURMOND. That is all. Thank you.

Chairman RUSSELL. Anything further on this matter?

We thank you, Senator Williams, very much for coming here to discuss this bill with us.

(Subsequently, in executive session, the committee voted to report S. 1767, with an amendment, as covered by S. Rept. 773.)

HR. 4338 -TRAVEL AND TRANSPORTATION ALLOWANCES UNDER
CANCELED, REVOKED, OR MODIFIED ORDERS

Chairman RUSSELL. We have next on the agenda H.R. 4338. This bill authorizes the reimbursement to a member of the uniformed services for travel performed by himself or his dependents, or both, under orders directing him to make a change of station, that are subsequently canceled, revoked, or modified.

(H.R. 4338 follows:)

[H.R. 4338, 88th Cong., 1st sess.]

AN ACT To amend title 37, United States Code, to authorize travel and transportation allowances for travel performed under orders that are canceled, revoked, or modified, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That chapter 7 of title 37, United States Code, is amended as follows:

(1) The following new section is inserted after section 406:

“§ 406. Travel and transportation allowances: authorized for travel performed under orders that are canceled, revoked, or modified

“Under uniform regulations prescribed by the Secretaries concerned, a member of a uniformed service is entitled to travel and transportation allowances under section 404 of this title, and to transportation of his dependents' baggage, and household effects under sections 406 and 409 of this title, if otherwise qualified, for travel performed before the effective date of orders that direct him to make a change of station and that are later—

“(1) canceled, revoked, or modified to direct him to return to the station from which he was being transferred; or

“(2) modified to direct him to make a different change of station.”

(2) The following new item is inserted in the analysis:

“406a. Travel and transportation allowances: authorized for travel performed under orders that are canceled, revoked, or modified.”

SEC. 2. This Act becomes effective on October 1, 1949. Any member or former member of the uniformed services who, after September 30, 1949, but before the date of enactment of this Act, has not been paid, or has repaid the United States, an amount to which he otherwise would have been entitled had section 1 of this Act been in effect during that period is entitled to be paid or repaid that amount, if the payment or repayment is otherwise proper and he applies for the payment or repayment within one year after the date of enactment of this Act.

SEC. 3. Any appropriations available to the departments concerned for the pay and allowances of members of the uniformed services are available for payments under this Act.

Passed the House of Representatives July 8, 1968.

Attest:

RALPH R. ROBERTS, *Clerk.*

Chairman RUSSELL. This bill was part of the original military pay recommendations by the Department of Defense, but the House Committee on Armed Services decided that it was advisable to consider this measure separately. After having considered it separately, the other body passed the bill and it is now before us.

The departmental witness on this bill is Col. J. W. Scanlan from the Office of the Deputy Chief of Staff for Personnel, Air Force Headquarters.

STATEMENT OF COL. J. W. SCANLAN, POLICY DIVISION, DIRECTORATE OF PERSONNEL PLANNING, OFFICE, DEPUTY CHIEF OF STAFF, PERSONNEL, HEADQUARTERS, U.S. AIR FORCE

Chairman RUSSELL. Be seated and give us a brief explanation of this bill.

Colonel SCANLAN. It is a privilege for me to appear before you today to express the unqualified support of the Department of the Air Force and the Department of Defense for the provisions of H.R. 4338.

The purpose of this proposed legislation is to authorize reimbursement to a member for travel performed by himself and/or his dependents under orders that direct him to make a change of station and that are subsequently canceled, revoked, or modified.

Current law and regulations authorize transportation in kind or reimbursement therefore, for members of the uniformed services, their dependents, and household goods upon a change of station. In the majority of cases there is no problem in the administration of this law.

A problem arises, however, in some of the cases where orders are canceled or modified after a member or dependents have departed the last duty station. The problem arises because of the definition of the "effective date of orders" in connection with a change of station. The rule as stated by the Comptroller General is that the effective date of orders is the date of detachment from the old duty station if no delay or leave is involved. If a leave or delay is involved, the effective date becomes that date on which the member would have been detached to arrive at the new station on the reporting date without a delay or leave. Under regulations of all of the services, travel may begin at any date after orders are received. Notwithstanding this authority, entitlement to travel allowances depends on the effective date of orders.

Current application of the law and regulations requires a service member either to delay his movement and that of his dependents until the latest date—that is, without considering any leave—on which they could travel to the new duty station or to assume a risk that his orders may be canceled or modified before their effective date. This risk is statistically small, but the financial loss to the individual could be substantial.

The current situation and the need for legislative assistance can best be illustrated by citing several specific examples: Maj. William R. Cook, USAF, was released from assignment with the 15th Tactical Reconnaissance Squadron, Kadena Air Force Base, Okinawa, and assigned to Offutt Air Force Base, Nebr. The orders specified that Major Cook would depart on May 22, 1960, via Military Air Transport Service to Travis Air Force Base, Calif. He was authorized 7 days' travel time plus 30 days' delay en route. On June 27, 1960, Special Orders No. AA-1849 were issued by headquarters, 6313th Air Base Wing, amending the previous orders pertaining to Major Cook's transfer. These orders assigned Major Cook to Sunnyvale, Calif. On June 23, while on authorized leave, Major Cook was officially notified by telephone of the change in his duty orders. Major Cook arranged to have the official written change in his orders sent to Offutt Air Force Base. He then proceeded from Ohio (where he had been on leave) to Offutt Air Force Base and on July 5, 1960, he picked up his written orders and proceeded to Sunnyvale, Calif. He reported for duty at Sunnyvale on July 9, 1960. Payment was made for his travel and the travel of his dependents only from the port of debarkation, Travis Air Force Base, Calif., to his ultimate duty station, Sunnyvale, Calif. The difference in this case amounted to \$842.76. A private law was enacted in the 87th Congress for the relief of Major Cook.

Following are the details of a case involving William Joseph Kelly, chief yeoman, U.S. Navy, who died prior to settling claim for travel allowances. In his correspondence with the widow, the Comptroller General summarized the case as follows:

Your husband was transferred by order No. 29-60 prepared September 16, 1959, from Headquarters, 1st Naval District, Boston, Mass., to the U.S.S. *Ingersoll*, at San Diego, Calif. He was to report not later than November 17, 1959, and was authorized 30 days' leave, plus 14 days' travel time and 4 days' proceed time. You completed travel to San Diego October 26 and he died there October 28.

The joint travel regulations provide that when leave or delay prior to reporting to the new station is authorized in the basic orders, the amount of such leave or delay will be added to the date of release or detachment from the old station to determine the effective date of the orders.

It consistently has been held that no official travel is required under change of station orders until such time as the traveler must depart from the old duty station by ordinary means of transportation to reach his destination on the date designated by the travel orders. Where the member is granted leave or delay in connection with travel, it is considered that no official travel is required until expiration of such leave or delay.

Therefore, since your husband would not have had to leave his station in Boston until after October 28, 1959, the date he died, in order to reach San Diego by November 17, it must be held that he did not report officially at his new station. For this reason there is no authority to allow your claim for monetary allowance in lieu of transportation.

These are just two examples of cases which have happened. There have been at least two other private laws enacted in the 87th Congress because of similar circumstances: (1) Private Law 87-494, for the relief of certain members of the U.S. Marine Corps; and (2) Private Law 87-668, for the relief of Sgt. Ernest I. Aguilar.

Enactment of this proposed legislation would prevent situations of this kind. This bill is retroactive in that, subject to making a claim within 1 year from the date of enactment, it would authorize reimbursement to those members who may have occurred additional expenses as a result of modification of orders.

The exact number of individuals and the distances involved cannot be precisely determined. However, based on a statistical sampling, it is estimated that the cost of this legislation will be approximately \$524,000.

Mr. Chairman, that concludes my prepared statement.

There are representatives of the other services here who will be happy to answer any questions you may have.

Thank you.

Chairman RUSSELL. Why was this made retroactive to October 1, 1949?

Colonel SCANLAN. That date is the effective date of the Career Compensation Act which established present allowances under the joint travel regulations, and as a practical matter we felt that although essentially the same provisions of the law have been in effect since 1942, that we would probably have no cases that would go back any further than 1949.

Chairman RUSSELL. I suppose that we will have to report this bill, but it does seem to me that with very careful and prudent scrutiny of personnel files and vacancies a great deal of these instances could have been avoided. Of course, you couldn't have helped this one about this naval yeoman because he died, but just why they had to change Major Cook's orders and make him incur this expense of \$842 which, of course, he shouldn't have to bear because he was in no wise responsible for it, does not appear.

It is true in a number of cases. The services should be prudent and careful before making these assignments and these extraordinary ex-

penditures could be avoided. Of course, it is wholly unjust to expect any serviceman to bear this expense when it was incurred by him through no fault or choice of his own at all.

Go ahead, Colonel Scanlan.

Colonel SCANLAN. I would like to comment on that, Mr. Chairman. We have established controls, by regulations of all of the services, specifically aimed at trying to avoid situations of this kind. We feel that the cost in the future will be very small, but we are not able to guarantee 100 percent that this won't happen in the future, and especially in cases where a death would require cancellation or replacement in a hurry.

Chairman RUSSELL. I am aware of that. Of course, as long as men perform any duty, there will be some errors made somewhere along the line, but it certainly should be possible to keep them at a very low level and avoid most of them by careful administration and close scrutiny of order changes, changes in travel orders. Every time they make a change in his travel orders, they know where he was ordered to and where he was going, and if they would look at it for a few minutes, they could certainly determine whether it was going to put undue hardship on the man involved.

Any questions of the Colonel on this bill?

Senator YOUNG. Mr. Chairman, may I ask a question?

Chairman RUSSELL. Yes, Senator Young.

Senator YOUNG. It seems to me, Colonel, that making this legislation retroactive for a period of 15 years might result in considerable injustices. A large number of men entitled to refunds under this would not make application, while others would, and I am wondering if this section 2 should not be eliminated altogether.

Colonel SCANLAN. Yes, sir. That could happen—

Chairman RUSSELL. Yes.

Senator YOUNG. Go back 15 years and probably there are a great many who would be entitled to refunds who wouldn't know about this, wouldn't think of making them, but some sharper fellows, some barracks lawyers, might be on the job to make application and they would get a preference, wouldn't they?

Colonel SCANLAN. Well, sir; we will take action to bring this to the attention of all military personnel, all uniformed personnel.

Senator YOUNG. In fact, Colonel, there will be a considerable number who are no longer in the armed services who would not know about this and would not apply.

Colonel SCANLAN. That is true, yes sir; but I think we can make the information available to them through service channels and through public news information services.

Senator YOUNG. I don't want to take further time but it seems to me I take a sort of dim view of making legislation retroactive for a period of 15 years.

Senator ERVIN. Mr. Chairman, I want to make an observation. Contrary to Senator Young, in order to minimize my work as a member of the Judiciary Committee, if you pass a general bill without retroactive features, every one of these cases where they would have applied otherwise will come in and ask for passage of a special bill and we will be handling the situation from now on until the last one of them is—

Senator YOUNG. That may be true but should not there be some limitation, statute of limitations, under 15 years? That is going back to 1949 which is a long, long time.

That is all I have.

Chairman RUSSELL. Colonel, that date was chosen because that was the effective date of the Career Compensation Act. Of course, there will be a number of bills if some general legislation isn't passed. I believe I heard somewhere once that it costs \$450 just to go through the motions of introducing a one-page bill here on the Hill.

Any further questions?

Thank you, Colonel Scanlan.

(Subsequently, in executive session, the committee voted to report H.R. 4338, without amendment, as covered by S. Rept. 776.)

H.R. 2664—EXEMPTION OF SOLE SURVIVING SON

Chairman RUSSELL. The next bill is H.R. 2664. This bill would exempt from induction the sole surviving son of family whose father died as a result of military service.

(H.R. 2664 follows:)

[H.R. 2664, 88th Cong., 1st sess.]

AN ACT To amend section 6(o) of the Universal Military Training and Service Act to provide an exemption from induction for the sole surviving son of a family whose father died as a result of military service

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 6(o) of the Universal Military Training and Service Act (50 App. U.S.C. 456(o)) is amended—

- (1) by inserting the words "the father or" after the word "Where"; and
- (2) by inserting the words "unless he volunteers for induction" after the words "of this title".

Passed the House of Representatives July 15, 1963.

Attest:

RALPH R. ROBERTS, *Clerk.*

Chairman RUSSELL. I am sure all the members of the committee are aware of the fact that existing law provides an exemption for a sole surviving son where one or more sons or daughters were killed in action or died in line of duty, but this exemption does not extend to the sole surviving son in a family where the father died in service.

The objective of this bill is very apparent to all. Under the present manpower conditions neither the Department of Defense nor the Selective Service System has any objection to it.

We have here to testify Lt. Col. Hulett D. Smith, Office of Deputy Chief of Staff for Personnel, Department of the Army. He will make a brief statement if members of the committee so desire. I think I should say that I intend to suggest to the committee that we amend this bill in order that this exemption might be suspended in time of war or future national emergency.

Do you have a statement, Colonel?

The purpose of the bill is very apparent. Does any member of the committee desire to have Colonel Smith make a statement?

We will distribute your statement, Colonel, and that will be all right. We won't hear from you this morning. Thank you just the same.

Colonel SMITH. Thank you.

(The statement referred to follows:)

STATEMENT OF LT. COL. HULETT D. SMITH, ODCSPER, CONCERNING H.R. 2664

Mr. Chairman and members of the committee, I am Lt. Col. Hulett D. Smith, Office of the Deputy Chief of Staff for Personnel, Department of the Army. The Department of the Army was assigned responsibility for expressing the views of the Department of Defense on this bill.

H.R. 2664 provides an exemption from induction for the sole surviving son of a family whose father died as a result of military service. Under the present provisions of the Universal Military Training and Service Act exemption from induction is only applicable where a son or daughter dies as a result of active service, and then the exemption applies to the remaining son. The Universal Military Training and Service Act does not exempt from induction the sole surviving son whose father died as a result of active service.

This bill, if enacted, will include the father who dies as a result of active service. It is restricted only to involuntary induction—it permits voluntary induction.

The Department of Defense has no objection to enactment of the bill.

I have appreciated the opportunity of appearing before the committee and will be happy to answer any questions.

Chairman RUSSELL. At this point I wish to include in the record a statement from Senator Kenneth B. Keating, of New York, and a statement from Mrs. Fanny Goldstein, legislative chairman, New York Chapter of the Gold Star Wives of America, Inc.

STATEMENT OF SENATOR KENNETH B. KEATING, OF NEW YORK, ON H.R. 2664

Mr. Chairman, I appreciate the opportunity to appear before the committee this morning in support of H.R. 2664. This measure will achieve the same desirable result as S. 1857, which I introduced on July 10.

In a time of continuing international tensions, we all recognize the need for a strong defense establishment—including both material and manpower. To maintain our military personnel at a sufficient level, we have had to extend the universal military service and training program.

Induction into the Armed Forces is necessary if we are to fully protect the values of our society. The call to arms is an honor for every young citizen and yet we have recognized that fulfillment of the military obligation imposes a greater sacrifice on some individuals and families than others. Consistent with our primary belief that the proper function of Government is to serve the individual rather than the individual serving the State, we have provided certain exemptions in the Universal Military Training and Service Act to offset the burdens of extraordinary sacrifice.

Thus, we have provided for deferment in cases of extreme hardship. By section 6(o) of the act, there is an exemption for the sole surviving son of a family where one or more sons or daughters were killed or died in the line of duty. Recently, a September Executive order provided that all married men be exempt from induction until all available single men have been taken into the military.

But nowhere is there any specific exemption for the sole surviving son of a family whose father died as a result of military service. H.R. 2664 remedies this oversight and inequity by extending the exemption of section 6(o) of the act to include the sole surviving son of a family whose father was killed in action or died in the line of duty. Certainly, if we are going to exempt or exclude anyone from military duty, the sole surviving son should be afforded an exemption. For it is these young men who will carry on their father's name and to whom their families must look for support.

In my judgment, this bill is a fitting tribute to the fathers who made the extreme sacrifice to their country and I hope this committee will favorably report H.R. 2664.

Thank you, Mr. Chairman.

STATEMENT OF MRS. FANNY GOLDSTEIN, LEGISLATIVE CHAIRMAN, GOLD STAR WIVES
OF AMERICA, INC.

GOLD STAR WIVES OF AMERICA, INC.,
NEW YORK CHAPTER,
New York, N.Y., December 12, 1963.

Mr. CHAIRMAN.

GENTLEMEN: There has been a law in existence for many years that exempts from military service the sole surviving son of a family where another child gave a life while serving in the Armed Forces of the United States or died as a result of such service. The family consists of the father, mother, sisters, and the surviving brother. This brother is the sole surviving son and he is exempt from military service so that he can carry on.

Now, the serviceman who was married and a father while serving in the Armed Forces of the United States is not remembered. He fought and died under the same circumstances as the other serviceman and should, in all fairness, be shown the same consideration. It should not be held against him just because he was married and a father at the time he gave his life for his country. His sole surviving son should also be exempt so that he can carry on the name and family for his father. In some cases this boy is an only child; the only seed of his father and the only one who can carry on. In case of need he is the one the war widow can turn to. We war widows should, at least, be shown the same consideration as others. We became widows because our husbands went to war. We lost our life companion, our breadwinner, and we could not have any more children.

H.R. 2664 is a just bill. It will amend the present law to include the father who gave his life for his country and will exempt his sole surviving son from military service.

The Defense Department and selective service have given H.R. 2664 favorable reports. The House of Representatives passed it July 15. Senator Keating introduced a similar measure S. 1857.

Even though we are not at war, we read and hear of servicemen being killed. The war widow should not have to worry if she will become a Gold Star Mother; it is bad enough being a Gold Star Wife.

We hope you will remember the father who gave his life while serving in the Armed Forces of the United States and do all you can so that this just bill H.R. 2664 will become law this session of Congress.

Thank you.

Respectfully yours,

(Mrs.) FANNY GOLDSTEIN, *Legislative Chairman.*

(Subsequently, in executive session, the committee voted to report H.R. 2664, with an amendment, as covered by S. Rept. 774.)

H.R. 3005—WAIVING DECLARATION OF INTENTION TO BECOME A CITIZEN AS CONDITION FOR ENLISTMENT IN RESERVES

Senator RUSSELL. The next bill is H.R. 3005, which would authorize peacetime enlistments in the Reserve components of the Armed Forces by persons who have been lawfully admitted to the United States for permanent residence.

(H.R. 3005 follows:)

[H.R. 3005, 88th Cong., 1st sess.]

AN ACT To amend sections 510 and 591 of title 10, United States Code, to remove the requirement that an alien must make a declaration of intention to become a citizen of the United States before he may be enlisted or appointed in a reserve component

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That sections 510(b)(1) and 591(b)(1) of title 10, United States Code, are each amended to read as follows:

"(1) he is a citizen of the United States or has been lawfully admitted to the United States for permanent residence under chapter 12 of title 8; or".

Passed the House of Representatives November 18, 1963.

Attest:

RALPH R. ROBERTS, *Clerk.*

Chairman RUSSELL. In 1961 the Congress approved legislation sponsored by the late Congressman Walters that repealed a requirement of a legal declaration of intention to become a citizen before enlistments could be accepted in the Regular Forces. This bill apparently would make a corresponding change in the enlistment standards for reservists.

The departmental witness on this bill is Col. Robert H. Camp, Office of Reserve Components, Department of the Army.

STATEMENT OF COL. ROBERT H. CAMP, OFFICE OF RESERVE COMPONENTS, DEPARTMENT OF THE ARMY

Chairman RUSSELL. Be seated, Colonel, and tell us the reasons why you think this bill should be reported favorably. As briefly as possible, please, sir.

Colonel CAMP. Mr. Chairman, members of the committee, I have a prepared statement which I would like to present to the committee.

The purpose of H.R. 3005 is to amend sections 510 and 591 of title 10 to remove from the prescribed qualifications for enlistment and appointment the requirement that an alien must make a declaration of intention to become a citizen of the United States before he may be enlisted or appointed in a Reserve component. The amendments to these sections would provide that a noncitizen who is otherwise qualified may become a member of the Reserve components if he has been lawfully admitted to the United States for permanent residence in accordance with the Immigration and Nationality Act (ch. 12, title 8, U.S.C.).

Mr. Chairman, you may recall that a similar bill, H.R. 181, was favorably reported by your committee and passed the Senate in August 1961. That bill eliminated the requirement that aliens declare intent to become U.S. citizens as a prerequisite for enlistment in a Regular Army and Regular Air Force and substituted language as is in the bill now under consideration.

The Immigration and Nationality Act of 1952 eliminated the requirement for the "declaration of intent" as a prerequisite to naturalization and in section 334(f) made that declaration, often referred to as "first papers" merely an optional matter, without any bearing whatsoever on the alien's eligibility to become a citizens of the United States.

In view of these two actions, it appears that the prerequisite presently contained in sections 510 and 591 of title 10 is obsolete and results in inconsistency between citizenship requirements for enlistment in the Regular Establishment and appointment or enlistment in the Reserve components.

An alien cannot now be enlisted in the Reserve components if he has not filed a declaration of intent to become a citizen. However, this same man may enlist in the Regular Establishment or under the provisions of the Universal Military Training and Service Act, may be inducted and sent overseas. But, while overseas, he is ineligible to apply for officer candidate school or for a direct Reserve appointment with concurrent active duty because he has not filed a declaration of intent and he may not file unless he does so while physically present in the United States.

This, in effect, denies opportunity for advancement to these individuals and also excludes a potential source of officers to the Reserve components. This same inductee, who could not enlist in the Reserve components, is, after his active duty, transferred to a Reserve component to fulfill the remainder of his military obligations.

H.R. 3005 would remove the requirement for declaring intent to become a citizen and require instead a show of proof of lawful admittance to the United States for permanent residence.

The Department of Defense believes that the noncitizen who is otherwise qualified should be permitted to become a member of the Reserve components under the same conditions as those prescribed for enlistment in the Regular Establishment and therefore strongly supports enactment of H.R. 3005.

Mr. Chairman, this concludes my prepared statement. I have appreciated this opportunity to appear before you and shall be happy to answer any questions you may have on this bill.

Thank you.

Chairman RUSSELL. An alien who would be affected by this bill would be subject to selective service, would he not, Colonel Camp?

Colonel CAMP. Yes, sir. He is already subject to selective service without any declaration of intent.

Chairman RUSSELL. Yes.

Any questions?

If not, we thank you, sir.

Colonel CAMP. Thank you, sir.

(Subsequently, in executive session, the committee voted to report H.R. 3005, without amendment, as covered by S. Rept. 775.)

H.R. 2988—INCREASING EXPENDITURES FOR PARTICIPATION IN INTERNATIONAL SPORTS COMPETITIONS

Chairman RUSSELL. The next bill before the committee, and the last on the agenda, is H.R. 2988, which bill would increase from \$800,000 to \$2 million the authorization for expenses of participation in international sports competitions by members of the Armed Forces over a period of 4 years.

(H.R. 2988 follows:)

[H.R. 2988, 88th Cong., 1st sess.]

AN ACT To amend title 10, United States Code, to provide for participation by members of the armed forces in international sports activities

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 717(d) of title 10, United States Code, is amended by striking the figure "\$800,000" and date "March 14, 1955" and inserting the figure "\$2,000,000" and date "July 1, 1963" in place thereof, respectively.

Passed the House of Representatives November 18, 1963.

Attest:

RALPH R. ROBERTS, *Clerk.*

Chairman RUSSELL. Public Law 11 of the 84th Congress authorized the participation by members of the Armed Forces in international sports activities and imposed an expenditure ceiling of \$800,000 over each 4-year period commencing in 1955.

The Department of Defense, or the Department of State, or both, apparently consider this amount inadequate and the pending bill would increase the ceiling from \$800,000 to \$2 million.

Senator Inouye has informed the chairman of his strong interest in this bill and has urged that it be considered this year.

We have a departmental witness, Mr. William G. McNamara, Special Assistant to the Director for Special Activities, Office of the Assistant Secretary of Defense for Public Affairs.

Mr. McNamara?

STATEMENT OF WILLIAM G. McNAMARA, SPECIAL ASSISTANT TO THE DIRECTOR FOR SPECIAL ACTIVITIES, OFFICE OF THE ASSISTANT SECRETARY OF DEFENSE FOR PUBLIC AFFAIRS, ACCOMPANIED BY LT. COL. GENE MYERS, CHIEF, SPORTS BRANCH, ADJUTANT GENERAL'S OFFICE, DEPARTMENT OF THE ARMY

Mr. McNAMARA. Mr. Chairman, rather than read the entire statement, perhaps the members of the committee could glance through it. Chairman Russell. We would be glad to have you brief it for us, sir.

Mr. McNAMARA. Very well, sir.

Chairman Russell. You may proceed, sir.

Mr. McNAMARA. In 1955 when Public Law 11 was enacted, it was before the advent of industrial funding and we had no problem on transportation, but since that time we have been required to pay for our transportation on MATS aircraft. There have also been sizable increases in the cost of equipment and the cost of per diem has risen twice.

To illustrate the difference between costs in 1955 and today, I would like to compare a 10-day trip for an athlete from Fort Dix, N.J., to Frankfurt, Germany, and return. In 1955 it cost only \$120 whereas today it costs \$400.

We are therefore asking for an increase of \$300,000, or 37.5 percent, over the present \$800,000 authorization to defray the increased costs of participation in the olympics, the Pan-American games, and world championships.

The other \$900,000 is for participation in the International Military Sports Council (CISM). The International Military Sports Council was founded in 1948. The United States joined in 1951. In the beginning, membership totaled only five or six NATO countries, all close together, who participated annually in a few sports.

In 1951 and 1952 we participated in only two sports. But the organization has grown rapidly to where we now have 34 member nations. We participated last year in 13 different competitions. These events were held in various parts of the world.

These CISM competitions are held each year and the championship in each individual sport is hosted by a different government. In 1964 we plan to participate in competitions being held in the Far East, Latin America, North America, Middle East, Africa, and Western Europe.

Initially U.S. participation in the program was supported from nonappropriated funds by U.S. Army in Europe. But as the program grew, it became impossible for that headquarters to support it any

longer. Responsibility for CISM was therefore transferred to the Department of Defense in 1961. The Army Sports Branch was made executive agent. Support has been provided since then from available nonappropriated funds in Washington. However, the program continues to grow in importance and in membership and the military departments have found they can no longer support it. So it is felt that nonappropriated funds which are intended primarily for the recreation and welfare programs of the enlisted men at the base level should no longer be used to support this program which very definitely enhances the image and prestige of the United States in international athletic competitions.

Consequently we are asking for an increase of \$300,000 for continued participation in the civilian-type athletics [the pan-American games, winter and summer olympics and world championships] and for \$900,000, over a 4-year period [\$225,000 per year] to support the CISM program.

Senator SALTONSTALL. Mr. Chairman, may I ask just one question? Chairman RUSSELL. Yes, indeed.

Senator SALTONSTALL. Mr. McNamara, in the fifth paragraph of the first page of your statement which you have really just been discussing informally, my question is why do you separate these two amounts? If we are going to give you \$2 million over a 4-year period, why separate it and get into questions of accounting, getting into questions of making a decision whether you are preparing a man 2 years in advance for the Olympic games or whether he is preparing for some other sport. Why not give whatever lump sum we agree on and leave it as a lump sum for supporting participation?

Mr. McNAMARA. That is the way we would prefer it. What I was endeavoring to do was to separate the two programs to show you that there are two different problems involved. As far as the money is concerned, we would prefer a lump sum authorization of \$2 million.

Senator SALTONSTALL. Supposing you got a good man like Staubach or the Army quarterback, so as to be nondiscriminatory, suppose you got two good men like those and you wanted to put them into, we will say, a contest in this country that has nothing to do with international sports or other nations. Can this money be used for that purpose? Or why shouldn't it be used for that purpose? I just mention those two men. Supposing there is a football game out in San Francisco, for instance, where they want those two men on the same side. Couldn't this money be used for that purpose? For sending them out?

Mr. McNAMARA. No. The law provides that these funds are for international sports.

Colonel MYERS. For the record I am Lt. Col. Gene Myers, Chief, Sports Branch, Adjutant General's Office, Department of the Army. I think, if I understand your question correctly, sir, I will attempt to answer it. The money that we are asking for here is to support international sports wholly. This goes back into the training phase which would start in this country, of course, in preparing a man for the Olympic trials.

This takes care of this money. To more specifically answer your question, talking about Staubach and Stichweh, which is the Army quarterback's name, the money that is used in the United States—appropriated funds are authorized. But this comes through the normal appropriated channels.

Supplementing this are the nonappropriated funds which are allocated out of the Army Central Welfare Fund to the various major commands. As you know, Congress has authorized the use of appropriated funds in the recreation activities which, of course, include sports. But there has never, in my memory, been enough appropriated funds. That is what we are talking about here. Consequently, the nonappropriated funds are used to supplement the inadequate appropriated funds. The type of program that you are talking about, which is a domestic program, so to speak, is a joint operation, you might say.

Senator SALTONSTALL. In other words, you already have funds out of your ordinary appropriations, operations and maintenance appropriations, for carrying on sports in this country.

Colonel MYERS. That is correct, sir.

Senator SALTONSTALL. But not for international sports.

Colonel MYERS. May I clarify that statement? We are not coming to you asking for more money. We are asking you to raise the \$800,000 limitation, which is the limitation we are working on at this time. The money to run this program has to come out of the appropriations, the normal military appropriations of the different services, sir.

Senator SALTONSTALL. Do you agree with Mr. McNamara that you would prefer to have this as a lump sum rather than divided?

Colonel MYERS. Yes, sir. It is a limitation. In fact, it has two account numbers, one to support CISM, which actually as far as appropriated funds would be concerned would be an entire new sports program that we are taking on. That is the \$900,000 we are talking about. The other is raising the \$800,000 to \$1,100,000 to take care of the civilian-type international sports support that we normally are providing at this time, which includes the Olympics, Pan American Games, and qualifying men for U.S. national teams and world championships. We might say authorized civilian international competition.

Senator SALTONSTALL. So you are asking us to raise the limit on preparations for Olympic Games from \$800,000 to \$1.1 million, and then you are asking for an additional authorization of \$900,000 for these other games.

Colonel MYERS. That is the \$2 million lump sum we are asking for. We were breaking it down to avoid confusion because when you say that you want to increase international competition from \$800,000 to \$2 million, that in itself doesn't explain the problem. If we were to continue to operate as we are now, we would still need the \$300,000. But if we represent the United States, and this is what it is, in the CISM international military competition we need the additional \$900,000. So actually we are asking for a ceiling of \$2 million in lieu of the current \$800,000 authorization to operate all of our international sports programs.

Senator SALTONSTALL. Thank you, Mr. Chairman.

Chairman RUSSELL. I thought that most of the expenses of your interservice sporting events, like station football teams that play each other, were paid by a special fund that was generated at the gate. I didn't know those costs were defrayed by appropriated funds.

Mr. McNAMARA. That is part of the welfare and sports program at the base level which is supported by nonappropriated funds.

Chairman RUSSELL. I understand from Senator Saltonstall's illustration using the service teams, the quarterbacks, that he perhaps thought that some of those activities were supported by appropriated funds, and I thought most of them are supported by nonappropriated funds.

Colonel MYERS. May I answer your question, sir? The nonappropriated funds in support of the installation activities, as Mr. McNamara mentioned here, are the basic funds which do support the football program, as you mentioned, and the general overall sports program at the base. I won't say there is no admission charge but it is a rare occasion where admission is charged at an installation.

Now, I am not including the military academies in this. The military academies, as you probably know, operate in an entirely different athletic sphere than we do.

Now, you do get a certain amount of appropriated funds support for your sports program or your recreation program at the installation or base level through equipment, through facilities, through payment of professional personnel, etc. The Army's last projection, I believe, showed that the worldwide ratio of appropriated funds to nonappropriated funds utilized was 42 appropriated as opposed to 58 nonappropriated funds. I might add that it has been steadily increasing in favor of the appropriated funds.

Chairman RUSSELL. You mean if Quantico plays Fort Lee in a football game, they don't charge any admission?

Colonel MYERS. I can't speak for any specific installation. I am speaking for the Army in that respect. It is a rare occasion where an admission is paid at an Army installation. What about the Air Force? Some. Very seldom. It is authorized within our regulations but we feel, at least in the Army, that this is a recreation for the spectator as well as the participant.

Chairman RUSSELL. But don't you have some claim to the title, best football team, of any installation in the country every year? I read in the paper the other day where two of the service teams are going to play in a Bowl.

Colonel MYERS. Officially, there is no such thing as a service championship. Quantico has a fine football team, I am sure, and so does San Diego. But they are not playing, as far as I know, for any championship.

Senator JACKSON. Well, somebody wins it.

Colonel MYERS. Oh, yes, sir.

Senator JACKSON. What do they call it?

Colonel MYERS. Missile Bowl.

Senator JACKSON. What do they call the result?

Colonel MYERS. I guess you would call it the Missile Bowl Championship. I guess somebody will come out as the champion.

Mr. McNAMARA. The promoters of that particular bowl game are contributing 50 percent of the proceeds to the Service Welfare and Relief Societies and 50 percent to United Givers Fund.

Chairman RUSSELL. I was of the opinion that if you played one of those topflight games, perhaps there would be some admission charge. There is no reason why there shouldn't be, I suppose, but whether you charge or don't, over half of the cost of it comes from nonappropriated funds, if I understood the colonel's statement.

Colonel MYERS. That is the case on the overall program within the Army, sir.

Senator SALTONSTALL. Mr. Chairman, my only question, which has become sort of accelerated by all this conversation, is I wanted to ask the colonel whether his position used to be a guard or tackle.

Colonel MYERS. You know, the older you get the better you were back in those days. I was neither. I weighed 172 pounds and played regular center at the University of Kentucky, and my last year was 1936, sir. That is more years than I like to remember.

Mr. McNAMARA. Mr. Chairman, may I comment on Senator Saltonstall's two quarterbacks?

Chairman RUSSELL. Yes.

Mr. McNAMARA. If the two quarterbacks were outstanding runners, or jumpers, or javelin throwers and we felt they had an opportunity of making one of our national teams, then appropriated funds could be used to put them in training and send them to the site of the trials for the AAU team or the Olympic team or whatever it might be. If they made the team, then the AAU or the U.S. Olympic Committee would pay their expenses from the time the team left until they returned to their home bases. But the preparation would be at our expense.

Chairman RUSSELL. I glanced through this statement you submitted. I believe you indicate there that about 25 percent of all the Olympic contestants were military athletes?

Mr. McNAMARA. That is approximate, sir. Mr. "Tug" Wilson said in an interview in October with the sports director of the Armed Forces Network in Germany that he expected one-third of the 1964 Olympic team to be military athletes.

Chairman RUSSELL. I believe that after they are finally selected to participate in the Olympics that the military does not assume any responsibility for their per diem and allowances.

Mr. McNAMARA. That is correct.

Chairman RUSSELL. During that period.

Mr. McNAMARA. Once they make the team, the U.S. Olympic Committee or the AAU, as the case may be, pays all expenses.

Chairman RUSSELL. I have been somewhat concerned—with one outstanding exception—about the relatively poor showing of our female athletes in the Olympics. Aren't the Wacs and Waves contributing anything outstanding to the Olympic team?

Mr. McNAMARA. In the Army we have a 19-year-old Wac by the name of Frances Davenport, who made the women's team that went to Russia last summer. She is throwing the javelin about 170 feet.

Colonel MYERS. Her best throw, and it is recognized as a U.S. record, is 168 feet 10½ inches. It was recognized by the AAU just last week.

Mr. McNAMARA. And in the Air Force we also have an outstanding woman pistol shot who made the U.S. team that went to the world championships in 1962 in Cairo.

Chairman RUSSELL. Thank you.

Any further questions?

Senator JACKSON. May I ask a question? I noticed on the list of CISM member nations that Great Britain is not on the list. Quite a number of the nations are very small. What is the reason?

Mr. McNAMARA. Great Britain has been invited several times. For reasons known only to themselves they have declined to accept membership.

Senator JACKSON. Mr. McNamara, I am all for the sports program. I think they are very fine, very essential. But in view of the program of at least a form of austerity, cutting back wherever we can, isn't there something that could be deferred?

Mr. McNAMARA. Well, sir, you have the—

Senator JACKSON. Sort of a bare bones program now. Have you evaluated this in light of the decisions being made in the last couple of days to cut back substantially in various military areas? I am talking about the principle—it is a small amount of money here but I am just wondering whether this policy, this proposal has been reviewed in the light of what appears to be a change of policy on the part of the Department of Defense.

Mr. McNAMARA. The Secretary of Defense has established the policy that we encourage our personnel to participate in international competitions.

Senator JACKSON. I say I think this is a very fine thing. There are a lot of fine things that we would like to do but we are cutting back, and I am just wondering if this has a higher priority than some of the other things that are being cut.

Mr. McNAMARA. The sports pages around the country and articles in national magazines indicate a widespread desire throughout the country that the United States do better in the 1964 Olympics than we did in 1960.

Senator JACKSON. Well, there are a lot of desires locally. We are getting a lot of mail on some of these things that are being cut back.

Mr. McNAMARA. Colonel Myers—

Colonel MYERS. I will attempt to answer your question. My answer to your question, could it be deferred, is that there is nothing that can't be. I think, however, that it would be highly inadvisable at this time. We are involved and have been involved for some time on an austere basis in these international military sports competitions. We represent the United States in them.

Over here the layman does not understand the importance of this. The thing about it is when we go to Turkey with a boxing team, for example, in a CISM championship, whether we have the best boxers in the service or whether we have some poor serviceman without any training or experience at all, they represent the best in the United States to the spectators sitting up in the stands.

Now, the \$900,000, which is the bulk of this request that we have put in, is important at this moment. If we do not get it it would mean that we would not participate in the CISM competition from the end of this fiscal year until the beginning of the new cycle in March 1967. I think that is how simple it is.

Mr. McNAMARA. With the worldwide importance attached to athletic excellence, I feel we should not even enter these competitions if we cannot field a first-class team. We have the athletes in our Armed Forces but they must have adequate financial support.

Senator JACKSON. That is all, Mr. Chairman.

Chairman RUSSELL. Anything further? If not, thank you, Mr. McNamara.

(The prepared statement of William G. McNamara, Special Assistant to the Director for Special Activities, Office of the Assistant Secretary of Defense, follows:)

STATEMENT OF WILLIAM G. McNAMARA, SPECIAL ASSISTANT TO THE DIRECTOR FOR SPECIAL ACTIVITIES, OFFICE OF THE ASSISTANT SECRETARY OF DEFENSE (PA)

The purpose of the bill is to increase the statutory dollar ceiling on the maximum amount of appropriated funds that can be utilized to support the participation of members of the Armed Forces in international sports activities. Under the provision of the bill, as amended, the present \$800,000 ceiling on the expenditure of appropriated funds over a 4-year period would be increased to \$2 million.

As the members of the committee will recall, Public Law 11, now codified as section 717 of title 10, specifies that military personnel of the Armed Forces may train for, attend, and participate in the Pan-American games, the Olympic winter games, and the various Olympic games. Also, the law permits personnel of the Armed Forces to train for, attend, and participate in other international amateur sports competition, provided that the interests of the United States will be served by such participation.

In order to finance the participation of members of the Army, Navy, Air Force, and Marine Corps in such athletic activities, the military departments were authorized to use appropriated funds. However, the statute provides that not more than \$800,000 of appropriated funds could be used for this purpose during each 4-year period, beginning on the date of enactment of the act. Inasmuch as this act became effective on March 14, 1955, the 4-year period provided in the law began on that date.

The Department of Defense now finds that the dollar authorization provided in existing law is inadequate, due to changes in costs together with the necessity for increased sports participation.

H.R. 2988 would authorize expenditure up to \$2 million of available funds over a 4-year period with up to \$1,100,000 for participation of members of the Armed Forces in international civilian sports competitions, such as the Olympic and Pan American games and world championships, and up to \$900,000 over the same 4-year period for participation by our military athletes in sports competitions with the military athletes of the 33 other nations who are members of the Conseil International du Sport Militaire (CISM), in English, the International Military Sport Council.

The \$1,100,000 authorization requested for participation in the civilian sports competitions is an increase of approximately \$300,000, or 37½ percent, over the current authorization for the same sports activities. This increase is necessary, if we are to maintain our past level of participation, to defray the increased cost of transportation, equipment, per diem, etc., which have occurred since 1955.

The effect of increased cost of transportation and per diem alone can be illustrated by the following comparison of the cost of a 10-day trip from Fort Dix, N.J., to Frankfurt, Germany, in 1955, when title 10 was enacted, and in 1963:

	1955	1963
MATS transportation.....	0	\$252
Per diem.....	\$120	160
Total.....	120	412

Participation in international sports events by the United States has taken on new importance during the last decade. This has been brought about through the increased interest of other nations of the world in sports activities and their all-out efforts to win. The development of sports programs and top athletes in other countries has made it highly desirable for the United States to foster programs designed to contribute to the improved development and participation of American athletes in such international competitions as the Olympic games, Pan-American games, the annual CISM programs, annual world championships in various sports, and other international competitions, clinics, and exhibitions. The United States must continue its participation if it is to gain and maintain a favorable position in the field of international sports and uphold a desired level of prestige.

Many organizations have recognized this responsibility and its importance. This recognition has been stimulated by the President's Council for Physical Fitness and its increased interest in the organization of and participation in sports programs at all levels.

The U.S. Olympic Committee has emphasized the need for increased development of broader programs at all levels as a means of developing new and better athletic talent. Kenneth L. Wilson, president of the U.S. Olympic Committee, has pointed out that "the results of the 1960 Olympic games reflect the tremendous progress the athletes of the world have made during the preceding 4 years."

The Armed Forces provides an opportunity for each individual who is considered qualified for international competition to have limited-duty time during the season at his home station to train. At the appropriate time, he is authorized to train full time for a short period just prior to the competition or trials.

The Armed Forces pay the cost of the qualified athletes' transportation to and from the sites where the trials are being held for places on Olympic, Pan-American, or U.S. national teams. Those who are selected for the team have all expenses and transportation paid by the AAU, U.S. Olympic Committee, or other sponsoring agency from the time the team assembles until they return to their home stations. Many of the U.S. finest athletes are in the Armed Forces. Since 1960, military athletes comprised approximately 25 percent of our Olympic and Pan-American teams.

This represents a very substantial increase in participation by the Armed Forces in international sports activities as compared with a decade ago. Unfortunately, however, the expansion of CISM activities, which are scheduled on an annual basis, and the increased participation of military personnel in the Olympic and Pan-American games which take place every 4 years, have occurred at the same time.

During the last 4-year cycle, 1959-63, the \$800,000 authorization was expended as follows:

Travel.....	\$320, 447
Per diem.....	342, 993
Equipment.....	98, 355
Total.....	761, 795

A detailed breakdown of these expenditures, by service and athletic event, is attached as table 1.

The armed services propose to expend the \$1,100,000 requested for the 1963-67 cycle, as follows:

Travel.....	\$523, 927
Per diem.....	458, 926
Equipment.....	103, 507
Total.....	1, 086, 360

A detailed breakdown of these expenditures, by service, is attached as table 2.

A breakdown of the number of service athletes receiving specialized training and who qualified for international sports events during the last 4-year cycle is attached as table 3.

The projected number of athletes who may receive specialized training during the current 4-year cycle is attached as table 4.

Since 1948, the Conseil International du Sport Militaire (CISM) has grown from a membership of 5 European countries participating in a few sports to a worldwide organization of 34 free nations participating in 17 sports. Some 10 additional nations have sent observers to CISM competitions, and subsequently expressed interest in joining the organization. Consequently, the activities of this organization spread far beyond the geographical limits of the European Command. This fact, coupled with Department of State urging, increased U.S. participation in CISM, led to a decision to transfer responsibility for CISM from the European Command to the Department of Defense. This was accomplished in October 1961. Specifically, this includes responsibility for the annual program, recruiting, and budgeting of participation in the CISM.

In 1951, the United States participated in only two of the CISM competitions. In 1963, we participated in 13 different events. A detailed breakdown of the number of events the United States entered each year, and the number of military athletes in each event, is attached as table 5.

The projected annual cost of U.S. participation in the CISM program is attached as table 6.

The calendar of 1961 CISM events, along with dates and locations of each event, is attached as table 7.

Until 1961, U.S. participation in CISM was limited primarily to U.S. military athletes stationed in Europe with the U.S. European Command, and the cost of participation was defrayed by nonappropriated funds of the European Command. With the growth of CISM, beyond the geographical limits of the European Command, the Interservice Sports Council, in October 1961, assumed the responsibility for U.S. participation in CISM, and the Army was designated as the executive agency for coordinating all participation. The expansion and resultant added expense of this program can no longer be supported from nonappropriated funds, which have been used in the past to support CISM in its entirety.

In summary, therefore, the Department estimates that an additional \$300,000 over and above the \$800,000 ceiling in existing law will be required for the next 4-year period to permit the existing level of Armed Forces participation in civilian sports competition.

In addition, the Department will require an estimated \$900,000 in increased authorization for the next 4-year period to permit participation of military athletes in CISM.

Thus, the combination of the \$1,100,000 to support military participation in international civilian sports competition, together with the estimated \$900,000 which will be required to support military participation in CISM, constitutes the new \$2 million authorization requested by the Department.

Thank you, Mr. Chairman. Are there any questions?

TABLE 1.—U.S. Armed Forces expenditures, Mar. 14, 1959, to June 3, 1963

Activity	Armed service	Travel	Per diem	Equipment	Total
Pan-American and Olympic preparation, 1960.	Army.....	32,000	23,473	15,256	70,729
	Navy.....	15,415	34,405	8,000	57,820
	Air Force.....	20,238	37,103	9,919	67,260
	Marine Corps.....	10,691	8,567		19,258
Subtotal.....		78,344	103,548	33,175	215,067
Olympic games, 1961	Army.....	72,000	54,645	14,336	140,981
	Navy.....	2,742	17,680	2,060	22,322
	Air Force.....	15,188	27,843	7,588	50,624
	Marine Corps.....	23,068	15,379		38,447
Subtotal.....		112,998	115,447	23,929	252,374
Other international events, 1962	Army.....	21,608	9,616	2,838	34,062
	Navy.....	3,960	3,100	1,500	8,560
	Air Force.....	18,808	24,481	9,409	62,698
	Marine Corps.....	4,663	3,110		7,773
Subtotal.....		48,979	60,307	13,747	113,033
Pan-American games and other international events, 1963.	Army.....	31,360	21,107	18,000	70,467
	Navy.....	18,100	13,628	3,000	34,728
	Air Force.....	15,009	28,517	6,504	50,030
	Marine Corps.....	15,657	10,439		26,096
Subtotal.....		80,126	73,691	27,504	181,321
Grand total.....		320,447	342,993	98,355	761,795

TOTAL BY ARMED SERVICES FOR 4 YEARS

Army.....	\$316,239
Navy.....	123,370
Air Force.....	280,612
Marine Corps.....	91,574
Total.....	761,795

TABLE 2.—*Planned requirements for international participation by U.S. Armed Forces, fiscal years 1964-67*

Fiscal year	Armed services	Travel	Per diem	Equipment	Total
1964	Army.....	\$92,600	\$39,320	\$20,000	\$151,920
	Navy.....	21,000	35,000	8,000	64,000
	Air Force.....	25,068	51,325	13,807	90,000
	Marine Corps.....	27,240	18,180	-----	45,400
	Total.....	165,908	143,805	41,607	351,320
1965	Army.....	62,500	26,750	4,000	93,250
	Navy.....	8,500	30,000	8,000	46,500
	Air Force.....	13,129	24,370	8,501	46,000
	Marine Corps.....	21,000	14,000	-----	35,000
	Total.....	105,129	95,120	20,501	220,750
1966	Army.....	62,500	26,750	4,000	93,250
	Navy.....	8,500	36,000	8,000	52,500
	Air Force.....	12,890	28,831	7,379	44,100
	Marine Corps.....	15,300	10,200	-----	25,500
	Total.....	99,190	96,781	19,379	215,350
1967	Army.....	72,700	31,340	6,000	110,040
	Navy.....	38,500	37,000	5,000	80,500
	Air Force.....	20,000	39,880	11,020	70,900
	Marine Corps.....	22,500	16,000	-----	37,500
	Total.....	153,700	123,220	22,020	298,940
	Grand total.....	523,927	458,926	103,507	1,086,360

TOTAL BY ARMED SERVICES FOR 4 YEARS

Army.....	\$448,460
Navy.....	243,500
Air Force.....	251,000
Marine Corps.....	143,400
Total.....	1,086,360

TABLE 3.—*Participation, Mar. 14, 1959, to June 30, 1963*

Year	Training	Qualified
1960:		
Pan American.....	451	83
Other international events.....	53	14
1961: Olympic Games.....	540	99
1962: Other international events.....	242	70
1963:		
Pan American.....	428	82
1964 Winter Olympic Games.....	32	10
Other international events.....	224	84
Total.....	1,970	442

Cost: \$761,795 divided by 1,970 in training equals \$386.64 per capita cost. \$761,795 divided by 442 qualified equals \$1,723.29 per capita cost.

TABLE 4.—Projected participation, July 1, 1963, to June 30, 1967

Fiscal year and service:		Training
1964:		
Army	-----	349
Navy	-----	89
Air Force	-----	181
Marine Corps	-----	152
Total	-----	771
1965:		
Army	-----	165
Navy	-----	52
Air Force	-----	83
Marine Corps	-----	152
Total	-----	452
1966:		
Army	-----	165
Navy	-----	55
Air Force	-----	81
Marine Corps	-----	152
Total	-----	453
1967:		
Army	-----	225
Navy	-----	67
Air Force	-----	140
Marine Corps	-----	152
Total	-----	584
Grand total		2,260
Costs: \$1,086,360 divided by 2,269 participants = \$480.07 per individual.		

TABLE 5.—U.S. participation in CISM events, 1951-63

	1951	1952	1953	1954	1955	1956	1957	1958	1959	1960	1961	1962	1963
Sea week												24	24
Volleyball											15	15	15
Ski week								12			12	14	20
Basketball			14		17	16	15	15	15	15	15	15	15
Boxing		14	12	15	15	15	14	14	14	14	14	14	14
Track	30	28	23	31	25	28	34	34			34	33	34
Military pentathlon	6						8	8					
Fencing			6			12	10	10			10		13
Swimming and water polo			16		19	27	20	20		20	20	20	32
Soccer				22	28	20	28	28	28		28	28	28
Shooting							12	12	12	12	12	11	
Cross country								8	8	8	8	8	8
Wrestling											12	11	16
Modern pentathlon													7
Participation in events	2	2	5	3	5	6	8	10	5	5	11	10	13

Funding and personnel support from 1951 through 1957 (except track and field 1956) was done by USAREUR. Token funding from nonappropriated funds from DA began in 1958 and increased until 1963. Personnel support from CONUS also increased during this period.

TABLE 6.—Planned annual requirements for CISM, 1964-67

Item	Travel	Per diem	Equip- ment	Cost of training	Hosting events	Total
Soccer.....	\$3,175	\$4,807	\$2,513	\$1,000	\$5,150	\$16,645
Wrestling.....	4,350	2,252	2,078	400	(¹)	9,080
Track and field.....	8,710	4,424	2,241	695	-----	16,070
Boxing.....	4,800	1,583	1,816	460	-----	8,159
Volleyball.....	4,880	3,197	1,488	1,490	-----	11,055
Basketball.....	1,010	2,959	2,050	1,550	-----	7,569
Swimming, diving, water polo.....	8,610	4,350	1,430	260	-----	14,640
Shooting.....	9,043	1,000	1,033	-----	-----	11,076
Cross country.....	3,280	1,329	2,345	-----	-----	6,954
Skiing.....	5,055	2,243	8,245	7,200	-----	22,743
Fencing.....	11,150	1,802	1,273	-----	-----	14,225
Modern pentathlon.....	4,900	400	1,817	-----	-----	7,117
Military pentathlon.....	14,500	4,211	4,565	-----	-----	23,276
Sea Week.....	16,400	4,412	1,900	-----	-----	22,712
General assembly.....	600	274	647	-----	-----	1,521
CISM academy.....	300	277	915	-----	-----	1,492
CISM officials travel.....	720	-----	150	-----	-----	870
Rules committee.....	600	-----	250	-----	-----	850
Miscellaneous.....	-----	-----	6,200	-----	-----	6,200
Hosting 1 championship per year.....	-----	-----	-----	-----	18,000	18,000
Total.....	101,583	39,520	42,956	13,045	23,150	220,254

4-year requirement, \$881,016. Personnel: 241 participants per year; approximately 750 involved in trials per year.

¹ Regional playoffs.

TABLE 7.—Calendar of 1964 CISM events

Event	Date	Location
1. Cross country.....	Feb. 22.....	Morocco.
2. Ski Week.....	Feb. 22-Mar. 1.....	Sweden.
3. Boxing.....	Apr. 20-30.....	Tunisia.
4. Modern pentathlon.....	May 14-22.....	United States (Fort Sam Hous- ton).
5. Judo.....	May 16-22.....	Korea.
6. Wrestling.....	2d half of May.....	Turkey.
7. Parachuting.....	June 1-4.....	France.
8. Volleyball.....	June 1-12.....	Holland.
9. Swimming.....	June 10-20.....	Italy.
10. Military pentathlon.....	July 25-Aug. 1.....	Norway.
11. Sea Week (naval pentathlon).....	Aug. 2-9.....	United States (Naval Academy).
12. Track and field.....	Aug. 5-12.....	Spain.
13. FAIM (Air pentathlon).....	Aug. 15-25.....	Greece.
14. Fencing.....	Aug. 15-Sept. 1.....	Argentina.
15. Basketball.....	Aug. 25-Sept. 2.....	Syria.
16. Soccer.....	Regional eliminations.....	Site of finals to be determined later.
17. Shooting.....	No firm date.....	Switzerland may host.

Chairman RUSSELL. That concludes the open session.

Senator CASE. Mr. Chairman, I wonder just before we do, and I am sorry I wasn't here for the entire time that the Secretary of Defense was here, but in relation to this piece by Hanson Baldwin in the Times, would it be possible to ask the Chiefs of Staff to give their opinion to the committee? There should be no controversy about what their opinion is, it seems to me, and we ought to know it before acting on anything that we are asked to act on that bears on it.

Chairman RUSSELL. We can discuss that in executive session.

Senator CASE. I didn't know that we were going to go into executive session.

Chairman RUSSELL. We are now resolving ourselves into executive session. We must ask our guests to leave.

(Whereupon, at 11:40 a.m., the committee went into executive session.)

88TH CONGRESS
1st Session

SENATE

REPORT
No. 776

AUTHORIZING TRAVEL AND TRANSPORTATION ALLOW-
ANCES FOR TRAVEL PERFORMED UNDER ORDERS
THAT ARE CANCELED, REVOKED, OR MODIFIED

DECEMBER 12 (legislative day, DECEMBER 11), 1963.—Ordered to be printed

Mr. THURMOND, from the Committee on Armed Services, submitted
the following

R E P O R T

[To accompany H.R. 4338]

The Committee on Armed Services, to whom was referred the bill (H.R. 4338) to amend title 37, United States Code, to authorize travel and transportation allowances for travel performed under orders that are canceled, revoked, or modified, and for other purposes, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

PURPOSE

This bill would authorize reimbursement to a member of the uniformed services for travel performed by himself or his dependents, or both, under orders directing him to make a change of station that are subsequently canceled, revoked, or modified.

BACKGROUND

The laws and regulations now in effect authorize transportation in kind or reimbursement for travel by members of the uniformed services, their dependents, and transportation of household goods when the member is permanently assigned to a new station. In the ordinary case there is no problem in the administration of this entitlement. In some cases, however, orders are canceled, revoked, or modified after a member or his dependents, or both, have left the last duty station and delay or leave is being taken before reporting to the new station. The Comptroller General has ruled (33 Comp. Gen. 289) that if leave or delay is involved, the effective date of the orders is the date on which the member would have been detached to arrive at the new station on the required reporting date without delay or leave. Under regulations of all the services travel may begin at any

2 TRAVEL ALLOWANCES UNDER ORDERS THAT ARE CANCELED

date after orders are received. Notwithstanding this authority, entitlement to travel allowances depends on the effective date of the orders. Under the current application of the law, if delay or leave is involved, a service member must delay his travel and that of his dependents until the latest date on which they could travel to the new duty station or assume a risk that his orders may be canceled or modified before their effective date.

WHAT THE BILL DOES

The bill provides a safeguard for service members by providing that they shall be entitled to travel and transportation and for reimbursement for transportation of their dependents, baggage, and household goods for travel actually performed under orders directing him to make a change of station that are later canceled, revoked, or modified to direct him to return to the station of origin or to another station.

The bill would be retroactive to October 1, 1949, the effective date of the Career Compensation Act of 1949, the general authority for the promulgation of travel and transportation allowances. For those persons with retroactive claims the application must be made within 1 year from the date of enactment of this bill.

The Congress has already approved several private relief bills for persons inequitably affected by changes in orders while en route to a new station. Enactment of this general authority should obviate need for further private relief measures. The following case illustrates the need for the bill and the type of relief it would provide. Specific legislative relief has been granted in this case by Private Law 87-624.

Maj. William R. Cook, U.S. Air Force, was released from assignment with the 15th Tactical Reconnaissance Squadron, Kadena Air Force Base, Okinawa, and assigned to Offutt Air Force Base, Nebr. The orders specified that Major Cook would depart on May 22, 1960, via Military Air Transport Service to Travis Air Force Base, Calif. He was authorized 7 days' travel time plus 30 days' delay en route. On June 27, 1960, Special Orders No. AA-1849 were issued by Headquarters, 6313th Air Base Wing, amending the previous orders pertaining to Major Cook's transfer. These orders assigned Major Cook to Sunnyvale, Calif. On June 23, while on authorized leave, Major Cook was officially notified by telephone of the change in his duty orders. Major Cook arranged to have the official written change in his orders sent to Offutt Air Force Base. He then proceeded from Ohio (where he had been on leave) to Offutt Air Force Base and on July 5, 1960, he picked up his written orders and proceeded to Sunnyvale, Calif. He reported for duty at Sunnyvale on July 9, 1960. Payment was made for his travel and the travel of his dependents only from the port of debarkation, Travis Air Force Base, Calif., to his ultimate duty station, Sunnyvale, Calif. The difference in this case amounted to \$842.76.

TRAVEL ALLOWANCES UNDER ORDERS THAT ARE CANCELED 3

COST

The precise number of members affected and the distances involved cannot be accurately estimated. A statistical sampling indicates that the cost of the legislation will be approximately \$524,000.

DEPARTMENTAL RECOMMENDATION

This bill is recommended by the Department of Defense. The provisions of the bill originally were included in the military pay legislation submitted by the Department of Defense. This feature was acted on separately in the other body.

CHANGES IN EXISTING LAW

In compliance with subsection 4 of rule XXIX of the Standing Rules of the Senate, there is herewith printed in parallel columns the text of provisions of existing law which would be repealed or amended by the various provisions of the bill.

EXISTING LAW

THE BILL

That chapter 7 of title 37, United States Code, is amended as follows:

“(1) The following new section is inserted after section 406:

“§ 406a. *Travel and transportation allowances: authorized for travel performed under orders that are canceled, revoked, or modified*

“Under uniform regulations prescribed by the Secretaries concerned, a member of a uniformed service is entitled to travel and transportation allowances under section 404 of this title, and to transportation of his dependents, baggage, and household effects under sections 406 and 409 of this title, if otherwise qualified, for travel performed before the effective date of orders that direct him to make a change of station and that are later—

“(1) canceled, revoked, or modified to direct him to return to the station from which he was being transferred; or

“(2) modified to direct him to make a different change of station.”

EXISTING LAW

THE BILL

"(2) The following new item is inserted in the analysis:

CHAPTER 7.—ALLOWANCES

- Sec.
401. Definitions.
402. Basic allowance for subsistence.
403. Basic allowance for quarters.
404. Travel and transportation allowances; general.
405. Travel and transportation allowances: per diem while on duty outside the United States or in Hawaii or Alaska.
406. Travel and transportation allowances: dependents; baggage and household effects.

" '406a. Travel and transportation allowances: authorized for travel performed under orders that are canceled, revoked, or modified.' "

407. Travel and transportation allowances: dislocation allowances.
408. Travel and transportation allowances: travel within limits of duty station.
409. Travel and transportation allowances: trailers.
410. Travel and transportation allowances: miscellaneous categories.
411. Travel and transportation allowances: administrative provisions.
412. Appropriations for travel: may not be used for attendance at certain meetings.
413. Chairman of the Joint Chiefs of Staff.
414. Personal money allowance.
415. Uniform allowance: officers; initial allowance.
416. Uniform allowance: officers; additional allowances.
417. Uniform allowance: officers; general provisions.
418. Clothing allowance: enlisted members.
419. Allowances while participating in international sports.
420. Allowances: no increase while dependent is entitled to basic pay.
421. Contract surgeons.
422. Cadets, midshipmen, and naval officer candidates.
423. Validity of allowance payments based on purported marriages.
424. Band leaders.
425. United States Navy Band; United States Marine Band: allowance while on concert tour.
426. Prisoners in naval confinement facilities.

TRAVEL ALLOWANCES UNDER ORDERS THAT ARE CANCELED 5

EXISTING LAW

THE BILL

"SEC. 2. This Act becomes effective on October 1, 1949. Any member or former member of the uniformed services who, after September 30, 1949, but before the date of enactment of this Act, has not been paid, or has repaid the United States, an amount to which he otherwise would have been entitled had section 1 of this Act been in effect during that period is entitled to be paid or repaid that amount, if the payment or repayment is otherwise proper and he applies for the payment or repayment within one year after the date of enactment of this Act.

"SEC. 3. Any appropriations available to the departments concerned for the pay and allowances of members of the uniformed services are available for payments under this Act."

○

SECRET

66-4-3385
845

66-4-0743

MEMORANDUM FOR: Special Assistant to the Deputy Director for Support

SUBJECT: Public Law 88-238, Travel and Transportation Allowances Authorized for Travel Performed Under Orders that are Canceled, Revoked, or Modified

REFERENCES: (a) Your memorandum to me of 11 February 1964, Subject: Revision of HR 22, Travel, to Include Travel and Transportation Allowances Authorized for Travel Performed Under Orders that are Canceled, Revoked, or Modified
(b) Memorandum for Deputy Director (Support), from Legislative Counsel, dated 31 January 1964, Subject: Public Law 88-238

1. As requested in reference (a), this Office has reviewed reference (b) and P.L. 88-238. It is recommended, however, that no action be taken to incorporate in Agency regulations an authority comparable to that provided to the Armed Services under Public Law 88-238.

2. Public Law 88-238 is specifically limited to reimbursing members of the Armed Services for travel and transportation expenses incurred before the effective date of change of station orders which are later canceled, revoked, or modified. This Office knows of no situation wherein an Agency employee was denied reimbursement for authorized travel or transportation expenses incurred prior to the effective date of a travel order which subsequently was canceled or modified. If an employee should incur travel and/or transportation in such circumstances, there are a number of Comptroller General decisions which recognize the principle that authorized travel and transportation expenses incurred in anticipation of official travel for which the authorization is subsequently canceled may be considered as official business (see 36 CG 421, B-129607, and 27 CG 97, B-68414 as examples).

3. While in some instances of cancellation of PCS travel orders employees have incurred expenses other than for travel or transportation which they would not otherwise have incurred, the Agency could not use Public Law 88-238 as the basis for authorizing reimbursement to the employee for such expenses since this law is limited in its scope to travel and transportation expenses.

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4. This matter has been discussed informally with members of the Office of Logistics and the Office of General Counsel who concur in our view that Agency regulations should not be amended to provide any entitlements on the basis of the subject law.

[Redacted Signature]

Director of Finance

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